

ARTICLE 1 PREAMBLE

In pursuance of authority conferred by Chapter 31, Sections 60-89, New Hampshire Revised Statutes Annotated, 1955, and for the purpose of promoting the health, safety, morals prosperity, convenience or general welfare, as well as efficiency and economy in the process of development of the inhabitants of the incorporated town of Sanbornton, New Hampshire, by securing safety from fire, panic and other dangers, providing adequate areas between buildings and various rights-of-way, by preserving the rural charm now attached to our Town, the promotion of good civic design and arrangements, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements, and by other means, now therefore the following ordinance is hereby enacted by the voters of the town of Sanbornton, New Hampshire, in official town meeting convened.

ARTICLE 2 DISTRICTS

For the purpose of this ordinance, the town of Sanbornton is divided into districts as shown on Drawing No. SP71001 filed with the Town Clerk and with corrections as adopted by legal vote of the Town and including the following:

- (1) Agricultural District;
- (2) General Residence District;
- (3) Forest Conservation District;
- (4) Recreational District;
- (5) Historical Preservation District;
- (6) Commercial District; and
- (7) Highway Commercial District.

Minimum lot requirements

ZONE	FRONTAGE.	SETBACKS			LOT AREA
	in feet	front	rear	side	in Acres
General Agriculture	220	30	10	10	3
General Residential	200	30	10	10	2
Forest Conservation	600	35	35	35	6
Recreational	175	30	10	10	1 1/2
Historic Preservation:					
Village Historic	175				1 1/2
Rural Historic	220				3
Commercial	125	30	10	10	1/2

ARTICLE 3 DEFINITIONS

For the purpose of this Ordinance, certain terms are defined as provided in this section.

1. Amusement Center means an area, enclosed or unenclosed, supplying entertainment, which is conducted on a basis of paid admission. [March 1992]
2. Building means any roofed structure including all integral parts thereof, intended for use and occupation as a habitation, or for the purpose of assembly, business, manufacture, storage, ornamentation, or shelter of persons, animals, or chattels. This term shall also include accessory structures, roofed or unroofed, attached or unattached, which are subordinate to a main building and customarily incidental to the purpose of a main building, including open porches, decks and breezeways, excluding unenclosed pervious materials installed at ground level. [March 1992]
3. Commercial Docking Facility means a multi-slip docking facility in which slips are rented to boat owners or to persons renting boats for short or long-term use. [March 1987]
4. Community Docking Facility means a multi-slip docking facility in which slips are rented or assigned to: (a) persons other than the owners of the property to which the docks are attached or (b) to a lot owner's association in which each of the owners may be an undivided owner in common of the property to which the docks are attached. [March 1987]
5. Condominium Docking Facility means a multi-slip docking facility in which each boat slip is individually owned or assigned. [March 1987]
6. Dwelling means any building or other permanent structure, or part thereof, used and occupied for human habitation by one family or intended to be so used and including any appurtenances belonging thereto or usually enjoyed therewith.
7. Elderly/Handicapped/Disabled Housing means the occupancy of units within the development shall be limited to family units in which the head of household or spouse is at least 55 years old, or is handicapped or disabled, as defined by the federal government.[March 1999]
8. Farm, Agriculture, and Farming [March 2002]
 - (1) The word “farm” means any land, buildings, or structures on or in which agriculture and farming activities are carried out or conducted and shall include the residence or residences of owners, occupants, or employees located on such land. Structures shall include all farm outbuildings used in the care of livestock, and in the production and storage of fruit, vegetables, or nursery stock; in the production of maple syrup; greenhouses for the production of annual or perennial plants; and any other structures used in operations named in paragraph 2 of this section.
 - (2) The words “agriculture” and “farming” mean all operations of a farm including:
 - (a)(1) The cultivation, conservation, and tillage of the soil.
 - (2) The use of and spreading of commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and, where permitted by state rules and regulations, other lawful soil amendments.
 - (3) The use of and application of agricultural chemicals.
 - (4) The raising and sale of livestock, which shall include, but not be limited to, dairy cows and the production of milk, beef animals, swine, sheep, goats, as well as domesticated strains of buffalo or bison, llamas, alpacas, emus, ostriches, yaks, elk (*Cervus elephus*

- canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elephus*), and reindeer (*Rangifer tarandus*).
- (5) The breeding, boarding, raising, training, riding instruction, and selling of equines.
 - (6) The commercial raising, harvesting, and sale of fresh water fish or other aquaculture products.
 - (7) The raising, breeding, or sale of poultry or game birds.
 - (8) The raising of bees.
 - (9) The raising, breeding, or sale of domesticated strains of furbearing animals.
 - (10) The production of green house crops.
 - (11) The production, cultivation, growing, harvesting, and sale of any agricultural, floricultural, forestry, or horticultural crops including, but not limited to, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, flowers, seeds, grasses, nursery stock, sod, trees, and tree products, Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, or any other plant that can be legally grown and harvested extensively for profit or subsistence.
- (b) Any practice on the farm incident to, or in conjunction with such farming operations, including, but not necessarily restricted to:
- (1) Preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials, from the farm.
 - (2) The transportation to the farm of supplies and materials.
 - (3) The transportation of farm workers.
 - (4) Forestry or lumbering operations.
 - (5) The marketing or selling at wholesale or retail, on-site and off-site, where permitted by local regulations, any products from the farm.
 - (6) Irrigation of growing crops from private water supplies or public water supplies where not prohibited by state or local rule or regulation.
- (3) A farm roadside stand shall remain an agricultural operation and not be considered commercial, provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner.
- (4) Practices on the farm shall include, but not be limited to, technologies recommended from time to time by the University of New Hampshire cooperative extension, the New Hampshire department of agriculture, markets, and food, and appropriate agencies of the United States Department of Agriculture.
9. Frontage means the length of the lot bordering on the public right-of-way.
10. Home Product and Products means and includes everything of an agricultural nature grown, produced, conditioned or otherwise carried on the property of the resident, also such articles as are manufactured or altered by members of the household or the bonafide resident of any property.
11. Hotel or Inn means any building or portion thereof where lodging is offered to transient guests for compensation and in which there is more than five sleeping rooms with no cooking facilities in an individual room or apartment.
12. Impact Fee means a fee or assessment imposed upon development, including subdivision, building construction or other land use change, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the town, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-of-way; town office facilities; public school facilities; the town's proportional share of capital

facilities of a cooperative or regional school district of which the town is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreational facilities not including public open space. [March 2002]

13. Junk means any old metals, old bottles, cotton or woolen mill waste, unfinished cloth, unfinished cotton or woolen mill yarns, old paper products, old rubber products, two or more unregistered motor vehicles which are unfit for use on highways, used parts and materials or motor vehicles and other second-hand articles the accumulation of which is detrimental or injurious to the neighborhood.
14. Light Manufacturing means a use involving the manufacture of a product such that all resulting dust, flash, fumes, gases, odors, refuse matter, smoke, vapor, hazardous or toxic materials, electro-magnetic interference or radio-active emission shall be completely and effectively confined within a building, or so regulated as to prevent any nuisance or hazard to the public health or safety and further provided that no vibration or other disturbance is perceptible without the use of instruments, at the boundary of the parcel involved. Provided also that noise shall be restricted to a peak level of 65 dBa between the hours of 7 AM and 7PM, and 45 dBa between the hours of 7 PM and 7 AM.
15. Light Manufacturing Company means a company, which engages in light manufacturing.
16. Lot means any parcel of land which is shown as a lot in a subdivision approved by the Sanbornton Planning Board and recorded in the Belknap County Registry of Deeds, or a parcel of land described and conveyed by a separate deed, provided that such lot or parcel has not been merged by act of the owner or Article 4, Section N of the Zoning Ordinance, subject, however, to the conditions and limitations of RSA 674:39.
17. Manufactured Home Park means any land area occupied or designed for occupancy by two or more manufactured homes.
18. Manufactured Housing means any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical systems contained therein. Manufactured housing as defined in this section shall not include pre-site built housing as defined in RSA 674:31-a and as from time to time amended.[RSA 674:31, 1990]
19. Marina means a commercial docking facility with additional services and facilities such as (but not limited to) sales of boats, marine equipment and supplies, repairs, and dry storage. [March 1987]
20. Multiple Family Dwelling means a building designed to house more than one family. [March 1987]
21. Non-Conforming Lots means a lot that is not contiguous to another lot owned by the same person or entity, that has less than the prescribed minimum area or frontage requirement of the zoning ordinance.
22. Non-Conforming Structure means a structure which is lawfully maintained at the time this Ordinance became effective and which does not conform with the regulations of the district in which it is located.

23. Non-Conforming Use means a use which lawfully occupied a building or land at the time this Ordinance became effective and which does not conform with the regulations of the district in which it is located.
24. Normal High Water means the limit of flowage rights in a regulated water body. In an unregulated water body normal high water is the high water experienced in an average year. For lakes where dams are owned by the New Hampshire Water Resources Board, information on the level of flowage rights is available from the Board.[March 1987]
25. Outdoor Recreational Facility: A place opened to the public and designed and equipped for sports, leisure time activities, other outdoor recreational activities (such as cross country and equestrian pursuits) as long as such activities do not require the use of a closed track or course needed for motorized vehicles. Accessory service building(s) shall be limited to that necessary to the pursuit of the sport. [March 2000]
26. Pre-site Built Housing means any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation, on the building site. For the purposes of this section, pre-site built housing shall not include manufactured housing, as defined in RSA 674:31 and this ordinance and as from time to time amended.[RSA 674:31-a, 1990]
27. Recreational Vehicle or RV means travel trailer, pickup camper on or off the truck, wheel camper, motor home, van or bus conversion, or any other vehicle for use as temporary dwelling for travel, recreation and vacation use.
28. Right-of-Way means and includes all range roads, town, state and federal highways and the land on either side of the same as covered by statutes to determine the widths of the rights-of-way.
29. Seasonal Dwellings means buildings of design or character suitable for seasonal living purposes, the intent being to regard such dwelling as designed for summer use primarily.
30. Tourist Court, Cabins, Motel means any group of two or more detached or semi-detached buildings containing guest rooms or apartments with automobile storage space available serving such rooms or apartments provided in connection therewith.
31. Tourist Home means any place consisting of a room or groups of rooms located on one premise where transient accommodations for sleeping or living purposes for not more than six persons are provided for a price.
32. Trailer Camp, Trailer Park Campground means any land area occupied or designed for occupancy by two or more travel trailers, pickup campers, motorized homes, tents or tent campers, used for temporary purposes.
33. Travel Trailer means a vehicular portable structure designed as a temporary dwelling unit for travel, recreation, and vacation uses, which (a) is identified by the manufacturer on the unit as a travel trailer, and (b) which is not over 8 feet in width or 30 feet in length.
34. Waterfront Access means frontage on or access to a lake and pond.

ARTICLE 4 GENERAL PROVISIONS

- A. No owner or occupant of land in any district shall permit fire or other ruins to be left but shall remove the same to ground level within two years.
- B. The removal of sod or loam from the Town is prohibited. Sand, gravel, rock, soil or construction aggregate may be removed only in the General Agricultural or Forest Conservation District, except that the Town may draw upon sources of gravel and other road building materials within any District for the purpose of public use within the Town as permitted by RSA 155-E.
- C. Advertising Signs
 - (1) Definitions:
 - (a) Advertising sign shall include any billboard, outdoor sign, notice, poster, display figure, painting, message placard, or any other device which is designated or intended to attract or which does attract the attention of those using roadways within the Town.
 - (b) Area of an advertising sign:
 - (i) The area of a free standing plane sign shall be measured from the outside dimensions of the structure, including borders but excluding supports which constitutes the advertisement or display. For a rectangular sign the area shall be the product of length multiplied by width. For other geometric plane structures, area shall be computed according to appropriate geometric formula.
 - (ii) Area of a plane advertising sign attached to a building or structure shall be computed as the entire area utilized in creating the display. Specifically included is background on a building or structure, which is modified to implement the display.
 - (iii) The area of three-dimensional structures shall be computed on the basis of the total display area measured from the outside dimensions of the structure including borders but excluding supports.
 - (iv) For irregular advertising signs or displays whose area cannot be computed by Article 4, C, (b) para. (i), (ii), or (iii), the selectmen shall determine the area. Their determination shall be final.
 - (2) No sign in any district shall be located or operated so as to distract, obstruct or otherwise impair the vision of automobile operators.
 - (3) No sign in any district shall be located as to obstruct scenic views, as determined by a majority of the selectmen, nor shall any sign be erected or maintained upon trees or drawn upon rocks or other natural features.
 - (4) No sign in any district shall be located or operated to constitute a nuisance or violation of good taste as determined by a majority of the selectmen. Signs, which are obsolete, not clean, and/or not in good repair or securely affixed, to a substantial structure shall constitute a nuisance.

- (5) When ordered by a vote of the selectmen, signs in violation of this zoning ordinance shall be removed or modified within a period of 15 days. Signs not removed or modified by the owner are subject to removal or modification by the Town at the property owner's expense.
- (6) Existing signs, which do not conform, to this ordinance shall be removed by the property owner within a period not to exceed two years following adoption of the amendment to the zoning ordinance.
- (7) Signs other than specified by this ordinance are prohibited, except that nothing herein shall be construed as prohibiting signs to be installed at the direction of the selectmen for the purpose of identification of highway, roadways or points of historical interest and for implementing the orderly flow of traffic in the Town.
- (8) The selectmen may, at their discretion, erect directional signs at the request of business, professional, service and commercial enterprises. All such directional signs shall be uniform in size and shape and contain only information regarding the name of the enterprise, direction and distance. The selectmen shall require that the entire cost of installing and maintaining such directional signs be borne by the enterprises receiving this service.
- (9) Nothing shall prevent a property owner or lease-holder from displaying a nameplate sign on his property, of not more than five square feet total area with his name or other means of identifying his property.
- (10) Recreation District signs pertaining to the lease, sale or use of a lot or building are permitted. Such signs are allowed only on the property to which the sign(s) apply. Such signs shall not exceed a total area of five square feet each. Not more than two such signs are permitted for each lot or building so advertised. Illuminated signs are not permitted. Any other advertising sign is not permitted in this district.
- (11) Commercial District
 - General Agricultural District
 - General Residence District
 - Forest Conservation District
 - (a) Signs permitted in the Recreation District are permitted in the Commercial District, General Agricultural District, General Residence District and Forest Conservation District.
 - (b) Permitted businesses or professional enterprises shall be allowed not more than two advertising signs. Such signs shall not exceed fifteen (15) square feet in area each, and shall not be more than 10 feet higher, at the highest point, than the level of the road surface to which their content is directed, and shall be located on the same lot(s) as the building(s) in which the permitted use is conducted. Freestanding signs on the same lot shall be separated from each other by a distance of not less than fifty (50) feet.

Two or more permitted businesses or professional enterprises located on a single lot or on contiguous lots sharing a common driveway or parking area shall be allowed not more than one wall advertising sign per business and one shared freestanding advertising sign in common. Permitted businesses or professional enterprises shall be allowed no other signage. Wall signs shall not exceed twenty-two (22) square feet in area. The area for each sign advertising a business within the common sign shall not exceed eight (8) square feet in area. The common sign shall not exceed thirty-two (32) square feet in total area and

shall not be more than fifteen (15) feet higher, at the highest point, than the level of the road surface to which its content is directed, and shall be located on the same lot(s) as the building(s) in which the permitted use is conducted.

Design standards. Business signs may be illuminated at the discretion of the owner using external white incandescent or fluorescent lighting. Flashing or blinking illumination is expressly forbidden. Signs may be illuminated only during working hours for the respective business or professional enterprise. Signs which move or have animated or moving parts are forbidden. Where two advertising signs are installed, each sign shall be complete in its own advertising message or content. [Revised March 1995]

(12) Historical Conservation District

Signs permitted in the Commercial District Recreational District, General Agricultural District, General Residential District are permitted in the Historical Conservation District, except that all signs in the Historical Conservation District shall be colonial in design and are subject to the approval of the Historical Preservation Commission.

(13) Highway Commercial District

- (a) Two advertising signs not to exceed twenty-five square feet each in surface area may be erected on the premises and contain advertising pertaining to the permitted business conducted thereon, subject to the following provision:
 - (i) Location shall not be less than 50 feet from the edge of the nearest adjacent right-of-way.
 - (ii) Free standing signs shall be not more than 10 feet high, at the highest point, than the level of the road surface to which their content is directed, and shall be located within 50 feet to the buildings in which the permitted use is conducted.

For a sign(s) installed on a building, the highest point on the sign shall not be more than 15 feet above the building which houses the permitted business and in no case shall be more than 30 feet above the surrounding grade or nearest adjacent roadway whichever is lower.

Illumination shall be by means of external white incandescent or fluorescent lighting. Flashing or blinking illumination is expressly forbidden. Signs which move or have animated or moving parts are forbidden.

- (iii) Signs shall also conform with State and Federal Regulations whichever is more restricting.

D. No uses other than those specified in this ordinance shall be permitted.

E. Use of Temporary Recreational Vehicles and Housing [March 1997]

- (1) Permit the use of not more than a combined total of two of any of the following: tents, travel trailers, wheel campers, motor homes or other recreational vehicles, by a property owner and/or

the owner's guests in the General Agricultural, General Residence, Forest Conservation, Historical Preservation, and Recreational District, subject to the following conditions:

- (a) Such use shall not exceed more than 30 consecutive days;
 - (b) Proper sewage disposal shall be available; and
 - (c) Such use shall comply with all Town Rules, Ordinances and Regulations.
- (2) The use of tents, travel trailers, wheel campers, motor homes, recreational vehicles or other temporary housing in numbers greater than specified above for special events may be permitted by the Selectmen in the General Agriculture, General Residence or Forest Conservation District upon written application by a landowner or authorized agent, subject to the following conditions:
- (a) No permit shall be granted until a public hearing is held. Notice shall be given for the time and place of the hearing at least 10 calendar days before the hearing, and shall be published in a paper of general circulation and posted in at least two public places in the municipality.
 - (b) The Selectmen shall set forth the terms and conditions of the permit sufficient to insure that public health, safety and general welfare of the community are assured. The terms and conditions shall be recorded in the hearing minutes.
 - (c) The Selectmen may require a performance bond from the applicant in an amount sufficient to insure that such terms and conditions are fulfilled and the area is restored to its original condition.
- (3) The use of temporary housing for emergency purposes may be permitted by the Board of Selectmen in any district for a period not to exceed 120 days. The granting of the permit shall be made pursuant to the Health Officer inspecting and approving the water source and sewage disposal system. Continued use beyond 120 days requires the granting of a special exception from the Zoning Board of Adjustment under Article 18(B)5.

F. No more than one dwelling shall be permitted on any lot except in those zones where multiple family dwellings are permitted.

G. Personal Wireless Services Facilities [amended March 2002]

1. **Authority**

This ordinance is adopted by the Town of Sanbornton in accordance with the authority as granted in New Hampshire Revised Statutes Annotated 674:16 and 674:21, procedurally under the guidance of 675:1, II and in accordance with RSA 12-K.

2. **Purpose and Goals**

This ordinance is enacted in order to effectuate the following goals and standards in permitting the siting of Personal Wireless Services Facilities (PWSF) in accordance with federal and state law:

- (a) To facilitate the review and approval of PWSF by the Town's Planning Board in keeping with the Town's existing ordinances and established development patterns, including the size and spacing of structures and open spaces. This ordinance is intended to be applied in conjunction with other ordinances and regulations adopted by the Town, including historic district ordinances, site plan review regulations and other local ordinances designed to encourage appropriate land use, environmental protection, and provision of adequate infrastructure development.
- (b) Preserve the authority of Sanbornton to regulate and to provide for reasonable opportunity for the siting of PWSF
- (c) Reduce adverse impacts such facilities may create, including, but not limited to; impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values. To minimize the visual and environmental impacts of PWSF by avoiding the deployment of PWSF that service substantially the same service area.
- (d) Require, where technically feasible, co-location and minimal impact siting options through an assessment of technology, current location options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the Town.
- (e) Permit the construction of new PWSF only where all other reasonable opportunities for co-location have been exhausted.
- (f) Require the configuration of PWSF in a way that minimizes the adverse visual impact of the facilities and antennas.
- (g) Require cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative impacts upon the Town of Sanbornton.
- (h) Provide constant maintenance and safety inspections for any and all facilities.
- (i) Provide for the removal of abandoned facilities that are no longer inspected for safety concerns and code compliance. Provide a mechanism for the Town of Sanbornton to remove these abandoned towers to protect the citizens from imminent harm and danger.
- (j) Provide for the removal or upgrade of facilities that are technologically outdated.
- (k) The regulation of PWSF is consistent with the purpose of the Sanbornton Master Plan to further the conservation and preservation of developed, natural and undeveloped areas, wildlife, flora, and habitats for endangered species; the preservation and protection of the natural resources of Sanbornton; balanced economic growth; the provision of adequate capital facilities; the coordination of the provision of adequate capital facilities with the achievement of other goals; and the preservation of historical, cultural, archaeological, architectural and recreational values.

3. **Applicability**

- (a) Public Property.

Antennas or towers located on property owned, leased, or otherwise controlled by the Town may be exempt from the requirements of this ordinance. This partial exemption shall be available if a license or lease authorizing such antenna or tower has been approved by the

Board of Selectmen and the Board of Selectmen elect subject to state law and local ordinance, to seek the partial exemption from this Ordinance and provided that the facility will be at least partially available for public purpose.

(b) Amateur Radio; and/or Receive-Only Antennas

This ordinance shall not govern any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas. This ordinance adopts the provisions and limitations as referenced in RSA 674:16, IV.

Modification of existing amateur radio facilities for commercial use shall require full town review in accordance with this ordinance.

(c) Essential Services & Public Utilities

PWSF shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for PWSF is a use of land, and is addressed in this ordinance.

4. **Definitions**

- (a) "Above Ground Level (AGL)" A measurement of height from the natural grade of a site to the highest point of a structure.
- (b) "Alternative tower structure" Innovative siting techniques that shall mean man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
- (c) "Antenna" The surface from which wireless radio signals are sent and received by a PWSF.
- (d) "Average tree canopy height" Means the average height found by inventorying the height above ground level of all trees over a specified height within a specified radius.
- (e) "Carrier" Means a person that provides personal wireless services.
- (f) "Co-location" The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on existing building or structure by more than one carrier.
- (g) "Elevation" The measurement of height above sea level.
- (h) "Environmental Assessment (EA) and Environmental Impact Statement (EIS)" Documents required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a PWSF is placed in certain designated areas.
- (i) "Equipment shelter" Means an enclosed structure, cabinet, shed vault, or box near the base of a mount within which are housed equipment for PWSF's, such as batteries and electrical equipment.
- (j) "FAA" An acronym that shall mean the Federal Aviation Administration.
- (k) "FCC" An acronym that shall mean the Federal Communications Commission.

- (l) “Fall Zone” The area on the ground within a prescribed radius from the base of a PWSF. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.
- (m) “Functionally Equivalent Services” Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging.
- (n) “Guyed Tower” A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.
- (o) “Height” Shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
- (p) “Lattice Tower” A type of mount that is self-supporting with multiple legs and cross bracing of structural steel.
- (q) “Licensed Carrier” A company authorized by the FCC to construct and operate a commercial mobile radio services system.
- (r) “Monopole” The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.
- (s) “Mount” Means the structure or surface upon which antennas are mounted and include roof-mounted, side-mounted, ground-mounted, and structure-mounted types.
- (t) “Omnidirectional (whip) antenna” A thin rod that beams and receives a signal in all directions.
- (u) “Panel Antenna” A flat surface antenna usually developed in multiples.
- (v) “Personal Wireless Service Facility” or “PWSF” or “facility” means any “PWSF” as defined in the federal Telecommunications Act of 1996, 47 U.S.C. section 332(c)(7)(c)(ii), including facilities used or to be used by a licensed provider of personal wireless services.
- (w) “Personal Wireless Services” Means any wireless telecommunications services, and commercial mobile services including cellular telephone services, personal communications services, and mobile and radio paging services as defined in the federal Telecommunications Act of 1996, 47 U.S.C. section 332 (c)(7)(C)(ii), including facilities used or to be used by a licensed provider of personal wireless services.
- (x) “Planning Board or Board” Shall mean the Town of Sanbornton Planning Board and the regulator of this ordinance.
- (y) “Preexisting towers and antennas” Shall mean any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance. Shall also mean any tower or antenna lawfully constructed in accordance with this ordinance that predates an application currently before the Board.
- (z) “Radio frequency radiation” Means the emissions from PWSF.
- (aa) “Security Barrier” A locked wall or fence that seals an area from unauthorized entry or trespass.
- (bb) “Separation” The distance between one carrier’s array of antennas and another carrier’s array.
- (cc) “Stealth Application” Means, for a PWSF, designed to look like a structure which may commonly be found in the area surrounding a proposed PWSF such as, but not limited to, flagpoles, light poles, traffic lights, or artificial tree poles. Also means, for a PWSF one that

is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure. (Stealth application is often referred to as “camouflaged” technology.)

(dd) “Telecommunications Facilities” Shall mean any structure, antenna, tower, or other device, which provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications service (PCS), and common carrier wireless exchange access services.

(ee) “Tower” Shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

5. **Conditional Use Permits**

(a) **General:** Telecommunications Facilities are permitted only after obtaining a Conditional Use Permit from the Planning Board. All such uses must comply with other applicable ordinances and regulations of the Town of Sanbornton.

(b) **Issuance of Conditional Use Permits:** In granting the Conditional Use Permit, the Planning Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties, and preserve the intent of this Ordinance.

(c) **Procedure on Application:**

The Planning Board shall act upon the application in accordance with the procedural requirements of the Site Plan Review Regulations and RSA 676:4.

All towns within 20 miles of the proposed location will be notified of the public hearing, by certified mail, to be paid by the applicant. A notice will also be posted in the newspaper customarily used for legal notices by these municipalities. Such notice shall be published not less than 7 days or more than 21 days prior to the public hearing date.

(d) **Decisions:**

All decisions shall be rendered in writing. A denial must be based upon substantial evidence contained in the written record.

Permits shall be renewable every five years. This time frame shall be consistent with the timing for security bond renewal. This permit shall become invalid if the security bond lapses.

(e) **Information Required:**

In order to assess compliance with this Ordinance, the Planning Board shall require the applicant to submit the following prior to any approval by the Board:

- (1) Propagation map showing proposed radio frequency coverage.
- (2) Photographic documentation of the balloon test(s).
- (3) The applicant shall submit written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.
- (4) The applicant shall submit written proof that it has conducted an evaluation of any requirements of the National Environmental Policy Act (NEPA) pertaining to the proposed facility, as may be required under applicable FCC rules, and the results of any such evaluation. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and/or NEPA, the applicant shall submit the EA or EIS to the Board prior to the beginning of the federal 30-day comment period; the Town proceedings with respect to the proposed facility shall become part of the FCC application requirements.

The applicant will provide the Board with the following information:

- (1) The number of sites for telecommunication facilities each provider will require;
- (2) Sites outside of the Town for the particular coverage area that are being considered;
- (3) How the siting of a telecommunication facility will affect the ability to allow a competitor's antennas on the same property.
- (4) The applicant will provide the Board with studies of alternative sites in Town that have been considered for siting.
- (5) The applicant shall submit an agreement with the Town that allows for the maximum allowance of co-location upon the new structure. Such statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other wireless telecommunication providers. An opportunity for co-location is not to be considered a justification for excessive height of towers. Co-location opportunities shall also not exclude the investigation of alternative sites.
- (6) The applicant will provide the Board with any copies of the federal license from the FCC proving that they, or their contracted client, are eligible to deploy their systems under the Federal Telecommunications Act of 1996.

Upon request, the applicant will provide:

- (1) Detailed maps showing all of the carrier's current externally visible tower and monopole locations in the state within a 20-mile radius, both active and inactive; and
- (2) Site descriptions for each of the above locations showing the antenna height and diameter, and all externally visible structures.
- (3) The applicant will submit an agreement to the Town to the effect that the Town will be held harmless for any extraordinary fire or safety events.

6. Siting Standards:**(a) Use Regulations:**

A PWSF shall require a conditional use permit in all cases and may be permitted as follows:

- (1) A PWSF may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower, water tower, building roof or side mount, cupola or steeple. Such facilities may locate by Conditional Use Permit in all zoning districts within the Town.
- (2) A PWSF involving construction of one or more ground mounts shall require a Conditional Use Permit and may be located in the Commercial, Agricultural and Forest Conservation districts within the Town.
- (3) A PWSF that exceeds the height restrictions of Section 6 (d) may be permitted by Conditional Use Permit in the Commercial, Agricultural, and Forest Conservation District.
- (4) Principal or Secondary Use: An applicant who successfully obtains permission to site under this ordinance as a second and permitted use may construct PWSF in addition to the existing permitted use. PWSF may be considered either principal or secondary uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with local development regulations, including but not limited to set-back requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. PWSF that are constructed in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure. Nor shall such facilities be deemed to be an "accessory use"

(b) Location:

Applicants seeking approval for PWSF shall comply with the following:

- (1) If feasible, PWSF shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one or more PWSF. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate.
- (2) The applicant proposing to build a new tower shall submit an agreement with the Town that maximizes allowance of co-location upon the new structure. Such statement shall become a condition to any approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs (prevailing rates) to other telecommunications providers. Failure to provide such an agreement is evidence that the applicant's proposed facility will not integrate with the overall telecommunications facility planning of Sanbornton, and grounds for denial.
- (3) The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Planning Board may have this and any other information reviewed by a consultant for verification of any claims made by the

applicant regarding technological limitations and feasibility for alternative locations. Cost for this review shall be borne by the applicant in accordance with 676:4 I (g).

- (4) If the applicant demonstrates that it is not feasible to locate on an existing structure, PWSF shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to; use of compatible building materials and colors, screening, landscaping, and placement within trees.
- (5) The applicant shall submit documentation of the legal right to install and use the proposed facility mount at the time of application for a building permit and/or conditional use permit.

(c) Co-location

- (1) Licensed carriers shall share PWSF and sites where feasible and appropriate, thereby reducing the number of PWSF that are stand-alone facilities. All applicants for a Conditional Use Permit for a PWSF shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:
 - (a) A survey of all existing structures that may be feasible sites for co-locating PWSF;
 - (b) Contact with all the other licensed carriers for commercial mobile radio services operating in municipalities within a 20 mile radius; and
 - (c) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.
- (2) In the event that co-location is found to be not feasible, a written statement of the reasons for the infeasibility shall be submitted to the Town. The Town may retain a technical expert in the field of RF engineering to verify co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant. The Town may deny a Conditional Use Permit to an applicant that has not demonstrated that co-location is not feasible.
- (3) If the applicant does intend to co-locate or to permit co-location, the Town shall request drawings and studies, which show the ultimate appearance and operation of the PWSF at full build-out.
- (4) If the Planning Board approves co-locations for a PWSF site, the Conditional Use Permit shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the Conditional Use Permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved Conditional Use Permit shall require a new Conditional Use Permit.

(d) Height Requirements:

- (1) Height, General: Regardless of the type of mount, PWSF shall be no higher than ten feet above the average height of buildings or trees within 300 feet of the proposed facility. In addition, the height of a PWSF shall not exceed by more than ten feet the height limits of the zoning district in which the facility is proposed to be located, unless the facility is completely camouflaged such as within a flagpole, steeple, chimney, or similar structure. PWSF may locate on a building that is legally non-conforming with

respect to height, provided that the facilities do not project above the existing building height.

- (2) Height, Ground-Mounted Facilities: Ground-mounted PWSF shall not project higher than ten feet above the average building height or, if there are no buildings within 300 feet, these facilities shall not project higher than ten feet above the average tree canopy height, measured from average ground level. If there are no buildings within 300 feet of the proposed site of the facility, all ground-mounted PWSF shall be surrounded by dense tree growth to screen views of the facility in all directions. These trees may be existing on the subject property or planted on-site.
- (3) Height, Side and Roof-Mounted Facilities: Side and roof-mounted PWSF shall not project more than ten feet above the height of an existing building nor project more than ten feet above the height limit of the zoning district within which the facility is located. PWSF may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.
- (4) Height, Existing Structures: New antennas located on any of the following structures existing on the effective date of this ordinance shall be exempt from the height restrictions of this ordinance provided that there is no increase in height of the existing structure as a result of the installation of a PWSF: water towers, guyed towers, lattice towers, fire towers and monopoles.
- (5) Height, Existing Structures (Utility): New antennas located on any of the following existing structures shall be exempt from the height restrictions of this ordinance provided that there is no more than a twenty foot (20') increase in the height of the existing structure as a result of the installation of a PWSF: electric transmission and distribution towers, telephone poles and similar existing utility structures. This exemption shall not apply in the historic district.
- (6) Balloon Test: The applicant shall provide notice of a date on which a balloon (or balloons) will be floated at the proposed site, and provide pictures from all locations around town and within 20 miles from which the balloon(s) is visible.

(e) Setbacks

- (1) All PWSF and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located.
- (2) In order to ensure public safety, the minimum distance from the base of any ground-mounted PWSF to any property line, road, habitable dwelling, business or institutional use, or public recreational area shall be the height of the facility/mount, including any antennas or other appurtenances. This setback is considered a "fall zone".
- (3) In the event that an existing structure is proposed as a mount for a PWSF, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing non-conforming structures, PWSF and their equipment shelters shall not increase any non-conformities.

- (4) Towers over 90 feet in height shall not be located within one-quarter mile of any existing tower that is over 90 feet in height.
- (5) In reviewing a Conditional Use Permit application for a PWSF, the Planning Board may reduce the required fall zone and/or setback distance of the zoning district, if it finds that a substantially better design will result from such reduction. In making such a finding, the Planning Board shall consider both the visual and safety impacts of the proposed use.

7. **Design Standards**

Visibility/Camouflage: PWSF shall be camouflaged as follows;

(a) Camouflage by Existing Buildings or Structures

- (1) When a PWSF extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front façade in order to limit their impact on the building's silhouette.
- (2) PWSF which are side mounted shall blend with the existing building's architecture and shall be painted or shielded with material which is consistent with the design features and materials of the building.

(b) Camouflage by Vegetation

If PWSF are not camouflaged from public viewing areas by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Ground-mounted PWSF shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The Planning Board shall determine the types of trees and plant materials and depth of the needed buffer based on site conditions.

(c) Color:

- (1) PWSF which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly attached thereto.
- (2) To the extent that any PWSF extend above the height of the vegetation immediately surrounding it, they shall be painted in a color determined best to blend in with the natural surroundings and/or background.

(d) Equipment Shelters:

- (1) Equipment shelters shall be located in underground vaults; or
- (2) Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

(e) Lighting and Signage

- (1) PWSF shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on-site shall be shielded from abutting properties. There shall be total cutoff of all light at the property lines of the parcel to be developed.

- (2) Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of the Town's sign regulations.
 - (3) All ground-mounted PWSF shall be surrounded by a security barrier.
- (f) Historic Buildings and District
- (1) Any PWSF located on or within an historic structure, as designated by the Town, shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.
 - (2) Any alteration made to an historic structure to accommodate a PWSF shall be fully reversible.
 - (3) PWSF within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the district.
- (g) Scenic Landscapes and Vistas
- No tower or antenna shall be located or operated so as to unreasonably obstruct scenic views, as determined by a majority of the Selectmen, nor shall any radio tower/antenna be erected or maintained upon trees or other natural features. No radio tower/antenna shall be located to constitute a nuisance. Radio towers/antennas, which are obsolete, not clean and/or not in good repair, or not securely affixed to a substantial structure, shall constitute a nuisance. Also, a tower/antenna which facilitates the interruption of television or radio reception shall be referred to the FCC for appropriate action.
- (h) Environmental Standards:
- (1) PWSF shall not be located in wetlands or in wetland buffer areas.
 - (2) No hazardous waste shall be discharged on the site of any PWSF. If any hazardous materials are to be used on-site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
 - (3) Ground-mounted equipment for PWSF shall not generate noise in excess of 50 db at the property line.
 - (4) Roof-mounted or side-mounted equipment for PWSF shall not generate noise in excess of 50 db at ground level at the base of the building closest to the antenna.
 - (5) Back-up power generation equipment may exceed the required decibel levels if necessary to maintain power to the PWSF during temporary power outages.
- (i) Safety Standards:
- (1) All equipment proposed for a PWSF shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radio frequency Radiation (FCC Guidelines).
 - (2) Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device.
 - (3) To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes. If, upon inspection, the Town concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower in compliance within

30 days, such action shall constitute an abandonment and grounds for the removal of the tower or antenna as abandoned, in accordance with Section 13 at the owners expense through execution of the posted security.

- (4) Access to the site will be maintained so that Emergency Safety Equipment shall be able to access the PWSF and facilities building on a year round basis.

(j) Modifications

A modification of a PWSF may be considered equivalent to an application for a new PWSF and will require a Conditional Use Permit when the following events apply:

- (1) The applicant and/or co-applicant request to alter the terms of the Conditional Use Permit by changing the PWSF in one or more of the following ways;
 - (a) Change in the number of facilities permitted on the site;
 - (b) Change in technology used for the PWSF.
- (2) The applicant and/or co-applicant request to add any equipment or additional height not specified in the original design filing.

(k) Reconstruction or Replacement of Preexisting Towers and Antennas

Preexisting tower(s) and antenna(s) in existence at the time of adoption of this Ordinance may be reconstructed, altered, extended or replaced on the same site by Conditional Use Permit, provided that the Planning Board finds that such reconstruction, alteration, extension, or replacement will not be substantially more detrimental to the neighborhood and/or Town than the existing structure. In making such a determination, the Planning Board shall condition whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety, and/or reduction in visual and environmental impacts. No reconstruction, alteration, extension or replacement shall exceed the height of the existing facility by more than twenty (20) feet.

8. State Requirements (RSA 12-K)

All wireless carriers or their appointed agents doing business, or seeking to do business, in the Town of Sanbornton shall:

- (a) Be allowed to construct new ground-mounted PWSF, provided that these PWSF comply with municipal regulations for maximum height or maximum allowed height above the average tree canopy height, subject to any exceptions, waivers, or variances allowed or granted by the Town.
- (b) Comply with all applicable state and municipal land use regulations.
- (c) Comply with all federal, state, and municipal statutes, rules and regulations, including federal radio frequency radiation emission regulations and the National Environmental Policy Act of 1969, as amended.
- (d) Provide information at the time of application to construct an externally visible PWSF to the Town of Sanbornton and to the NH Office of State Planning, as follows:
 - (1) A copy of their license from the Federal Communications Commission (FCC) proving that they are eligible to deploy their systems in this geographical area and that this deployment falls under the jurisdiction of the federal Telecommunications Act of 1996; or a copy of their contract with a person with such a license, and a copy of that license.

- (2) Detailed maps showing all of the current externally visible tower and monopole PWSF locations in the state within a 20 mile radius of the proposed externally visible PWSF, both active and inactive.
- (3) Site descriptions for each of the above locations showing the antenna height and diameter, and showing all externally visible structures.
- (4) A description of why less visually intrusive alternatives for this facility were not proposed.
- (e) A wireless carrier seeking approval to deploy a wireless communication facility shall be required to pay reasonable fees, including regional notification costs, imposed by the municipality in accordance with RSA 676:4 (I)(g).
- (f) Regional Notification: Any municipality or state authority or agency which receives an application to construct a PWSF which may be visible from any other New Hampshire municipality within a 20 mile radius shall provide written notification of such application and pending action to such other municipality within the 20 mile radius.
- (g) This notification shall include sending a letter to the governing body of the municipality within the 20-mile radius detailing the pending action of the application and shall also include publishing a notice in a newspaper customarily used for legal notices by such municipality within the 20-mile radius, stating the specifics of the application, the pending action, and the date of the next public hearing on the application. Such notice shall be published not less than 10 days or more than 21 days prior to the public hearing date.
- (h) Municipalities within the 20-mile radius and their residents shall be allowed to comment at any public hearing related to the application. Regional notification and comments from other municipalities or their residents shall not be construed to imply legal standing to challenge any decision.

9. Federal Requirements

- (a) All towers must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna as abandoned, in accordance with Section 13, at the owners expense through the execution of the posted security.
- (b) The applicant shall submit written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and NEPA, submission of the EA or EIS to the Board prior to the beginning of the federal 30-day comment period, and the Town process, shall become part of the application requirements.

10. Waivers

(a) General

Where the Planning Board finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with this ordinance or the purposes herein may be served to a greater extent by an alternative proposal, it may approve waivers to the ordinance. The purpose of granting waivers under provisions of this ordinance shall be to insure that an applicant is not unduly burdened as opposed to merely inconvenienced by said ordinance. The Board shall not approve any waiver(s) unless a majority of those present and voting shall find that all of the following apply:

- (1) The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property and will promote the public interest.
- (2) The waiver will not, in any manner, vary the provisions of the Sanbornton Zoning Ordinance (other than the terms of this ordinance), Sanbornton Master Plan, or Official Maps.
- (3) Such waiver(s) will substantially secure the objectives, standards and requirements of the ordinance.
- (4) A particular and identifiable hardship exists or a specific circumstance warrants the granting of a waiver. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:
 - (a) Topography and other site features
 - (b) Availability of alternative site locations
 - (c) Geographic location of property
 - (d) Size/magnitude of project being evaluated and availability of co-location

(b) Conditions

In approving waivers, the Board may impose such conditions, as it deems appropriate to substantially secure the objectives of the standards or requirements of these regulations.

(c) Procedures

A petition for any such waiver shall be submitted in writing by the applicant. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant.

11. Appeals under this section

A party aggrieved by a decision under this ordinance may appeal such decision to the New Hampshire Superior Court as provided by RSA 676:5, III and RSA 677:15, as amended.

12. Bonding and Security and Insurance

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the tower is abandoned and the tower owner is

incapable and unwilling to remove the tower in accordance with Section 13. All security will be held by the Town for the life of the tower. Bonding and surety shall be consistent with the provision in the subdivision or site plan review regulations. Furthermore, the Planning Board shall require the submission of proof of adequate insurance covering accident or damage.

13. Removal of Abandoned Antennas and Towers

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of quarterly inspections. The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Town notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a public hearing, noticed per Town regulations, with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within 90 days the Town may execute the security and have the tower removed. If there are two or more users of a single tower, this provisions shall not become effective until all users cease using the tower.

14. Severability

The invalidity of any provision of any section of this ordinance shall not affect the validity of any other provision, of this ordinance, nor of the zoning ordinance as a whole.

H. Public Water Supply/Future Public Water Supply

- (1) Bodies of water may be designated as public water supplies or future public water supplies by amendment to the zoning ordinance.
- (2) Land surrounding a public water supply or future public water supply may be developed subject to the following restrictions:
 - (a) No structures of any kind including permanent and temporary buildings or living accommodations, waste disposal, and drainage systems, roads or driveways shall be permitted within 200 feet of the high seasonal water mark of ponds, lakes, streams, and brooks.

Structures shall not be constructed within 200 feet of a point discharge water supply such as a spring or well, except that structures may be permitted at elevations below the discharge point elevation by approval of the Board of Adjustment, if contamination of the water supply is precluded.
 - (b) Living trees shall not be removed nor shall the soil be disturbed in any manner so as to permit silt to be carried into the body of water.
- (3) A body of water designated a public water supply shall not be used for body contact recreation purposes nor shall motor propelled boats of any kind be permitted.
- (4) Hunkins Pond is designated a future public water supply.

I. Abolition of a Historical District

- (1) Abolition of a Historical District shall not change or alter in any way the permitted uses, minimum lot sizes or frontage requirements that existed in the Historical District prior to its abolition.

J. Private Family Cemeteries

- (1) Private family cemeteries are permitted in the General Residence District, General Agricultural District, Forest Conservation District, and Historical District.
- (2) The cemetery lot shall be surveyed by a registered surveyor, marked "Not a Dwelling Lot" and recorded at the Belknap Registry. The cemetery lot layout shall show the stone corner bounds and shall show the dimensional location of all numbered grave lots.
- (3) The property owner shall maintain a copy of the recorded cemetery lot layout and a copy shall be provided to the Town Office. At the time of a burial, the cemetery owner shall supply to the Town Office the deceased's name and grave lot number for the burial lot.[Amended March 2001]
- (4) Adequate access shall be provided with a traversable right-of-way from a public highway. This right-of-way shall not be less than 15 feet wide.
- (5) The procedure for approval of a cemetery lot shall be the same as the procedure for a subdivision approval.
- (6) The cemetery lot shall be combined as one by deed with an abutting dwelling lot which by itself meets the minimum lot size of its district.

K. The conversion to condominium or cooperative forms of ownership shall constitute subdivision for the purposes of subdivision regulations.

L. Water Body Set Back: There shall be a minimum of 40 feet between water's edge and any structure except single story structures used solely for storage of boats. This requirement shall apply to natural waters and artificial impoundments of water, both of which must be of five acres or more in total area. Water's edge shall be defined as the elevation shown on Geological Survey, U.S. Department of Interior. Where water's edge as delineated is in doubt or dispute, the burden of proof shall be upon the owner(s) of the land in question to establish proper location. At the request of the owner(s), the Planning Board may engage a professional hydrologist to determine the elevation of water's edge. The Planning Board may charge the owner(s) for all or part of the cost of the investigation. Water's edge delineation can be modified by the Planning Board upon receipt of findings of the detailed on-site survey.

M. Soil Erosion and Sediment Control in Land Development

- (1) Control of soil erosion and sedimentation results in developments that minimize damage from soil erosion and sedimentation during construction, prevent off-site soil erosion and sedimentation damage, and results in completed sites stabilized and protected from erosion.
- (2) A soil erosion and sediment control plan shall be provided for all site plans and subdivisions only where grading, excavating, grubbing, filling (including hydraulic fill), or stockpiling of earth materials are planned.

- (a) Minor subdivisions, as defined in Section VII of the Sanbornton Subdivision Regulations, do not require soil erosion and sediment control plan unless specifically requested by the Planning Board.
- (b) If requested by the applicant, the Board may waive the control plan requirement if recommended by the Belknap County Conservation District (BCCD).
- (c) A soil erosion and sediment control plan shall not be required under this paragraph for any construction, alteration, or expansion of a residential structure that does not require formal approval, unless the changes will result in the addition of more than one residential unit.

(3) Erosion and Sediment Control Plan

- (a) A soil erosion and sediment control plan shall contain provisions to adequately control accelerated erosion and sedimentation and reduce the likelihood of excessive storm runoff based on the best available technology. Suitable principles methods, and practices are found in the Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire (April 1987, or as amended), alternative principles, methods, and practices may be used with approval of the Planning Board.
- (b) The plan shall contain a narrative describing:
 - (i) The development.
 - (ii) The schedule for grading and construction including approximate start and completion dates, sequence for grading and construction activities; sequence for installation and/or application of soil erosion and sediment control measures; and the sequence for final stabilization of the project site.
 - (iii) The design criteria for proposed soil erosion and sediment control measures and stormwater management facilities.
 - (iv) The construction details for (iii) above.
 - (v) The installation and application procedures for (iii) (above).
 - (vi) The operations and maintenance procedures and schedule of regular inspections for (iii) (above).
- (c) The plan shall contain a site map at maximum scale of 1":100' with five (5) foot contour intervals unless otherwise determined by the Board.
 - (i) The location of the proposed development and adjacent properties.
 - (ii) The existing and proposed topography including soil types, wetlands, watercourses, and water bodies.
 - (iii) Any existing structures on the proposed site.
 - (iv) The proposed area alterations including cleared, excavated, filled or graded areas; proposed utilities, roads and, if applicable, new property lines and the general location of proposed structures and driveways.

- (v) The location and design details of all proposed soil erosion and sediment control measures and stormwater management facilities.
 - (vi) The sequence of grading and construction activities.
 - (vii) The sequence for installation and/or application of soil erosion and sediment control measures.
 - (viii) The sequence for final stabilization of the development site.
 - (ix) Existing and proposed vegetation including tree lines, grassy areas, and unique vegetation.
 - (x) Site map, scale and date.
 - (xi) North Arrow.
- (d) The plan shall contain calculations to determine peak flow rates and volumes of runoff water. The soil conservation service method as outlined in Appendix I of Erosion and Sediment Control Design Handbook shall be used for these calculations, unless an alternative method is approved by the Planning Board.
- (e) The applicant shall provide all other information required by the Planning Board or its designated agent.
- (4) Planning Board Review
- (a) Prior to approval, the Board may submit the plan for review by the BCCD, which may make recommendations.
 - (b) The Board may forward a copy of the plan to the Sanbornton Conservation Commission, or other review agency or consultant for review and comment at applicant's expense.
- (5) Conditions
- (a) The estimated costs of measures required to control soil erosion and sedimentation, as specified in the approved plan, may be covered in a performance bond or other assurance acceptable to the Planning Board.
 - (b) Site development shall not begin unless the soil erosion and sediment control plan is approved and those control measures and facilities in the plan scheduled for installation prior to site development are installed and functional.
 - (c) Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the approved plan.
 - (d) All control measures and facilities shall be maintained in effective condition to ensure the compliance of the approved plan during the performance period.

- (e) The applicant shall obtain Planning Board re-approval for all proposed changes to the plan, including design, implementation, and scheduling, prior to proceeding with an altered plan.
 - (6) Inspections may be made by the Planning Board or its designated agent during development to ensure compliance with the approved plan and that control measures and facilities are properly performed or installed and maintained. The Planning Board may require the permittee to verify through progress reports, that soil erosion and sediment control measures and facilities have been performed or installed according to the approved plan and are being operated and maintained.
- N. rescinded 2006
- O. Pursuant to RSA 674:30 the Planning Board or its designee upon application by a utility, may waive setback requirements of this ordinance for any unoccupied structure which is less than 200 square feet in area, which is necessary for the furnishing of utility service for the public health, safety, or general welfare, and for which the utility's siting options are limited by virtue of said structure being a physically integrated component of the utility's transmission or distribution apparatus. Any such waiver shall terminate, without further action by the planning board, if said structure ceases to be used for provisions of utility services. All structures shall initially be reviewed under the Site Plan Review Regulations, as amended. Where a waiver is denied by the Planning Board or its designee, the Planning Board shall give notice of a hearing to review the siting of utility structures. [revised March 1993]
- P. Junkyards - The establishment and operation of junkyards shall be permitted in the Agricultural District subject to the following conditions: [revised March 1997]
 - (1) Licensing:
 - (a) Junk shall only be located in a licensed junkyard.
 - (b) The establishment and maintenance of a junkyard requires a License to Operate from the Board of Selectmen, accompanied by a Certificate of Approval for the location of the junkyard issued by the Zoning Board of Adjustment in accordance with RSA 236:111-129, as amended.
 - (c) Site plan review approval by the Planning Board is required before a License to Operate may be issued by the Board of Selectmen.
 - (2) Location:
 - (a) Licensed junkyards shall be located in accordance with requirements of RSA 236:118, as amended.
 - (b) No part of the operation shall be located within seventy-five (75) feet of any rear or side property lines.
 - (c) The minimum lot area shall be 8 acres.
 - (d) Aesthetic considerations shall be taken into account in the review of a proposed junkyard in accordance with RSA 236:120.

(3) Screening:

- (a) All junk shall be effectively screened from view from any road and abutting properties by a solid fence or barrier at least eight (8) feet in height, and otherwise in accordance with RSA 236:123, as amended.

(4) Operation:

- (a) No oil, grease, tires, gasoline or other similar materials shall be burned, and all other burning shall require written approval from the Board of Selectmen under the supervision of the Fire Department in accordance to the conditions of the License to Operate.
- (b) The storage and disposal of hazardous or toxic materials shall be in accordance with all State and Federal regulations.
- (c) Monitoring wells may be required at suitable locations for the purpose of testing surface and ground water for contamination by hazardous and toxic substances. Provisions shall be made for the Town to enter upon junkyard sites with proper notification for the purpose of obtaining water samples.
- (d) Junkyards shall be maintained so as not to cause a nuisance.
- (e) All junk shall be stored as to provide adequate access by fire fighting equipment.
- (f) No junk pile shall exceed fifteen (15) feet in height.

Q. New and/or Renovated Housing Construction for the Elderly/Handicapped/Disabled [March 1999]
[rescinded 2005]

(R). Child Day Care [March 2000]

A. Purpose

In order to provide affordable, quality, licensed child day within the Town of Sanbornton the following standards in accordance with NH RSA 170-E: 1-22 (as amended) are hereby incorporated into the Town zoning ordinance to insure the health, safety, and welfare of its residents.

B. Definitions

Child day care means the provision of supplemental parental care and supervision:

- a. for a non-related child or children;
- b. on a regular basis;
- c. under license by the New Hampshire Division of Public Health Services, Bureau of Child Care Standards and Licensing.

Child day care facility means a building or structure wherein an agency, corporation, partnership, voluntary association, person, or persons, or other organization, regularly provides care for a group of children. The types of child day care agencies are further defined under RSA 170-E.

C. Exemptions

The following do not require Site Plan approval from the Planning Board.

- a. Programs offering instruction to children, including but not limited to athletics, crafts, music, or dance, the purpose of which is teaching a skill.
- b. Private homes in which any number of the provider's own children, whether related biologically or through adoption, and up to 3 additional children are cared for regularly for any part of the day, but less than 24 hours, unless the caregiver elects to comply with the provisions of this chapter and be licensed.
- c. Municipal recreation programs.
- d. Private homes in which the only children in care are the provider's own children, children related to the provider, and children residing with the provider.
- e. Child care services offered in conjunction with religious services attended by the parent or offered solely for the purpose of religious instruction.

D. Permits

All state permits and licenses must be in-hand before applying to the Planning Board for review of the child care proposal. A Child Day Care Facility is a permitted use in all districts. Site Plan approval from the Planning Board is required for all child day care agencies, with the exception of those meeting Section C Exemptions. For all categories of child day care agencies requiring a site plan review, the following, in addition to existing site plan review standards must be met:

- a. One (1) parking space must be provided for each staff person and one space must be provided for each five-(5) licensed capacity slots.
- b. Loading and unloading of children from vehicles shall be permitted only on facility property in approved parking areas. No vehicles shall be allowed to back-up on the travel lane or shoulder of a public right of way.
- c. The exterior play area (50 square feet per child as per State of NH requirements) shall be fenced.
- d. All signage shall conform to the Town regulations for the underlying zone.
- e. No portion of the day care facility may be located within three hundred (300) feet of commercial gasoline pumps, commercial underground gasoline storage tanks or any other commercial storage of explosive material.
- f. All structures used for the child day care agency, or portions thereof, shall conform to State of NH Building Codes and Life Safety Codes, as amended. New construction and renovations over 50% of the building's value shall conform to the NH Code of Energy Conservation under RSA 155:D, as amended.

(S) Home Occupation [March 2000]

- A. Intent and Purpose: It is the intent and purpose of these regulations to provide opportunities for certain types of limited, home occupation or business uses within all of Sanbornton's districts while providing safeguards for the principal uses within the districts.
- B. Home Occupation: An accessory use of a dwelling unit for a business, which results in a product or service. It is an occupation, which is carried on by a resident or residents who occupy the dwelling unit and which is clearly subordinate to the residential use of the dwelling unit. A home occupation shall meet the following general conditions:
 - a. A home occupation shall not be permitted out-of-doors on the property. There shall be no outside operations, storage, or display of materials or products on an on-going basis. The exception is any products or materials from an agricultural enterprise or use, which would be a permitted use for that District;
 - b. No equipment or process shall be used in a home occupation, which creates noise, vibration, glare, fumes, or odor detectable off the property;

- c. No equipment or process shall be used which creates visual or audible electrical interference in any radio or television receiver off the premises or causes fluctuation in line voltage off the premises;
- d. Is incidental to the use of the premises as a residence;
- e. Is compatible with residential uses;
- f. Does not detract from the residential character of the neighborhood;
- g. The use and storage of heavy vehicles or equipment used in the business such as backhoes, graders, dump trucks, etc. shall not constitute a home occupation;

There shall be two levels of Home Occupations.

1. **Level One Home Occupation:** shall be allowed without obtaining site plan approval. A notification form shall be filed with the Planning Board identifying the location and nature of the proposed Level 1 Home Occupation. A copy of this form shall be forwarded to the police chief, fire chief, and health officer. To qualify as a Level One Home Occupation, an accessory business in the home must meet the general conditions and the following additional requirements on an on-going basis:[Amended March 2001]
 - a. Operated and staffed by the resident(s);
 - b. Shall be conducted within the dwelling unit or in an enclosed, accessory structure;
 - c. The area within the structure and accessory structure shall not exceed 50% of the total dwelling unit area;
 - d. The number, type and size of signs advertising the home occupation shall be in conformance with Article 4 Paragraph C Signs;
 - e. A Level One home occupation shall not generate customer or client traffic which is excessive for the road(s) providing access, and, as a guideline, the home occupation will generate no more than an average of (5) customer/client/deliver/service visits per day;
 - f. Exterior of the building shall not create or display any evidence of the home occupation, except for permitted signage;
2. **Level Two Home Occupation:** site plan approval from the Planning Board is required. To qualify as a Level Two Home Occupation, an accessory business in the home must meet the general conditions and the following additional requirements on an on-going basis:
 - a. Retail sales shall be limited to incidental sales of goods which are manufactured, assembled, or grown on site, or products which are directly related to the goods or services rendered by the home occupation.[Amended March 2001]
 - b. The police chief, fire chief, and health officer shall review the proposed home occupation and provide their comments and recommendations, if applicable.[Amended March 2001]
 - c. Operated and staffed by resident(s) and no more than three (3) outside employee(s);
 - d. The number, type and size of signs advertising the home occupation shall be in conformance with Article 4 Paragraph C Signs;
 - e. A home occupation shall not generate customer or client traffic which is excessive for the road(s) providing access, and, as a guideline, the home occupation will generate no more than an average of (10) customer/client/deliver/service visits per day;
 - f. Adequate off-street parking shall be provided for a home occupation as determined by the Planning Board. As a guideline, a permissible, home occupation should need no more than four (4)-parking spaces in excess of parking for the residential use;
 - g. A home occupation shall be conducted within the dwelling unit or in an enclosed, accessory structure;
 - h. The area within the structure and accessory structure shall not exceed 50% of the total dwelling unit area;

- i. If there is a change of ownership of the property where a home occupation has been approved by the Planning Board and the new property owner proposes to continue the home occupation, then the new property owner must conduct the home occupation in the same manner and under the same conditions as originally approved by the Planning Board or reapply to the Planning Board for a new Site Plan Review approval;
- j. A Site Plan Review for a Home Occupation approved by the Planning Board shall expire five years after the Planning Board approval. A property owner who desires to continue a Home Occupation shall reapply to the Planning Board for Site Plan Review approval, prior to the expiration date.

(T) Cluster Development Zoning [March 2000] [renamed 2006]

1. Authority: Cluster Development zoning is an innovative land use control according to RSA 674:21.
2. Purpose: Cluster Development zoning in the Town of Sanbornton will:
 - a. Retain rural and scenic character commonly associated with New England in which small villages are adjacent to open space areas.
 - b. Maintain land use patterns consistent with the goals of Sanbornton's Master Plan.
 - c. Preserve undeveloped land in its existing natural state in order to protect valuable land and water resources for conservation, forestry, agriculture, aquifer recharge, watershed protection, wildlife habitat, outdoor recreation, scenic and historic values, beyond the extent provided by existing regulations.
 - d. Protect contiguous land area which, be virtue of soil types and topography lend themselves to working landscapes such as forestry and agricultural enterprise.
 - e. Codify land use policies which offer greater flexibility in design of residential neighborhoods, conserve undeveloped road frontage, and offer single family housing development (creative site planning) alternatives which meet the needs of residents while working in harmony with natural features.
 - f. Permit reduced lot sizes in open space zoning developments, but will preclude condominiums or multi-family housing within open space zoning developments [rescinded reference to elderly housing 2006].
3. Open Space Design Standards:
 - A. **Open Space Standards**
 1. Prior to the submission of any subdivision application, applicants shall schedule a pre-application meeting at which time the applicants should be prepared to identify features of natural and/or historical significance, and open space areas of the affected parcel. The following are other examples that will be considered for preservation;
 - a. Prime (Federal Designation) and Important (State Designation) agricultural soils.
 - b. Land currently cultivated or in pasture.
 - c. Contiguous tracts of forestland.
 - d. Visually prominent topographic features such as, hilltops, ridges, and scenic views.
 - e. Existing or planned trails connecting the tract to other locations.
 - f. Tracts of land that are contiguous with other protected tracts.
 - g. Historic structures, sites, and features.
 - h. Habitat of species listed as endangered, threatened, or of special concern by the NH Natural Heritage Inventory and/or by the NH Fish and Game Department, Nongame and Endangered Wildlife Program.

- i. Significant wildlife habitat.
 - j. Land that provides a buffer to existing watercourses, wetlands, or open water bodies.
2. The minimum percentage of required open space shall be 50% of the total tract acreage. Road right-of-ways, utility and drainage easements, and individual lots shall not be included in the open space area.
 3. Not more than 25% of the minimum required open space shall consist of wetland/steep slope areas (of greater than 15% slope). Open space in excess of the minimum 50% required area may contain any percentage of wetland and steep slopes.

B. Common Areas:

Common lots/areas or set-asides are not required under Open Space Zoning. The applicant can still propose common areas, such as community greens, playgrounds, and recreation areas, but these areas are not included within the 50% required open space area. Common areas shall be held in common by all the lot owners. Refer to Sanbornton Subdivision Regulations concerning common areas.

C. Density Standards:

1. Determination of the maximum number of permitted lots shall be determined by the density (frontage and acreage requirements) allowed in the underlying Zoning and/or Overlay District for a conventional subdivision. In addition to the maximum density allowed under a conventional subdivision, the Sanbornton Planning Board will apply the following table for the maximum density allowed for an Open Space Zoning subdivision:

Conventional Subdivision	Open Space Zoning Density
Maximum of 2 up to 10 lots	Applicant is allowed one additional lot
Maximum over 10 lots	Applicant is allowed an additional 10% of the total number of lots (rounded to the nearest whole #) [i.e. A 20 lot subdivision would be allowed 2 additional lots]

D. Dimensional Standards:

After the natural features have been identified, the applicant shall locate potential house locations, then road alignments, then finally lot lines.

1. Lot sizes shall be sufficient to support water and sewage systems, utilities, driveway and other access, dwelling site, landscaping, and setbacks.
2. Lots shall be laid out, to the greatest extent feasible;
 - a. On the most suitable soils for sub-surface septic disposal.
 - b. On the least fertile soils for agricultural uses, and in a manner, which maximizes the remaining usable area for such agricultural purposes.
 - c. Within any woodland contained in the parcel, or along the outlying edges of open fields adjacent to any wood lot.
 - d. In a wooded location, whereas a majority of the forestland is contiguous and can be productively managed for forestry or wildlife.
 - e. In locations least likely to block or interrupt scenic vistas.
 - f. To maintain the majority of existing road frontage undeveloped.
3. Any lot facing onto an existing public road shall have frontage of not less than 50 feet.

4. Any lot facing a new subdivision road shall have frontage of not less than 50 feet. The Planning Board reserves the right to require appropriate separation between driveways.
5. Building setbacks may be established by the Planning Board; however, in no case, shall buildings be closer than 20 feet from each other.
6. Lots are limited to single family detached dwellings and accessory uses, including residential additions, garages, sheds, fences, and pools.
7. All new subdivision roads shall be designed and constructed in accordance to the road standards as specified in the Sanbornton Subdivision Regulations.
8. No lot shall measure less than 1/3 of the minimal lot size in area allowed for that zoning district.

E. Open Space Ownership Standards:

1. Covenants and restrictions in perpetuity shall permanently protect all open space areas and common areas.
2. The open space areas shall be conveyed by the applicant to one of the following;
 - a. A homeowners association or other legal entity under New Hampshire State Statutes.
 - b. Private ownership protected by deed covenants and restrictions in perpetuity, and use limited to conservation, agriculture, or forestry use.
 - c. A non-profit organization, the principal purpose of which is the conservation of Open Space.
 - d. Conveyed to the Town of Sanbornton. Such conveyance shall be at the option of the Town and shall require the approval from a majority of the voters at a Town Meeting.
3. Documents pertaining to open space development shall be recorded with the approved plat(s). Such documents may include agreements, proposed use, by-laws, Conservation Trust deed, restrictive covenants and easements.
4. The persons or entities identified as having the rights of ownership over any common lots shall be responsible for the maintenance of such areas.
5. Further subdivision of the open space land or use for other than conservation, forestry, agriculture, and/or outdoor recreation shall be prohibited. Structures and buildings accessory to conservation, agriculture, forestry, and/or outdoor recreation may be erected on the open space land, subject to review by the Planning Board and final issuance of a building permit by the Board of Selectmen. [amended March 12, 2002].

(U) Recreational Campgrounds [March 2001]

- 1) **Purpose and intent:** It is the purpose of this ordinance to allow the operation of recreational campgrounds within all Sanbornton's district(s). The recreational campgrounds are for the recreation and temporary accommodation of visitors. It is also the intent of this ordinance to discourage and prohibit the use of campgrounds for purposes other than temporary and recreational. This zoning is not intended for manufactured homes or for the development or establishment of a manufactured home park as defined under Article 3 of the definitions.
- 2) Campgrounds shall be permitted following issuance of a special exception by the Sanbornton Zoning Board of Adjustment and after the Planning Board has approved the site plan.
 - a) The public road providing access to the proposed campground shall be maintained year-round and have adequate capacity for the safety of vehicles.
 - b) Lots located in areas defined as "premature for development" in the 1995 Sanbornton Master Plan shall not be considered for a proposed Recreational Campground.

3) Definitions:

- a) "Campsite" means a parcel of land used for the placement of a tent(s) and/or a recreational vehicle for the overnight use of its occupants.
- b) "Recreational campground or camping park" means a parcel of land on which 2 or more campsites are located and which are intended for temporary occupancy for recreational dwelling purposes only, and not for permanent year-round residency.

4) Dimensional and Density Requirements:

- a) Wetlands, floodplains, steep slope areas (greater than 15%) shall not be included within the total density determination for a proposed Recreational Campground area.
- b) After elimination of the wetlands, floodplains, and steep slope areas, a minimum of 600 square feet shall be provided for each tent site and a minimum of 1000 square feet shall be provided for each recreational vehicle campsite.
- c) The location of the Recreational Campground shall comply with the existing state and local setback and buffer requirements.

5) Conditions for Recreational Campgrounds: The Sanbornton Planning Board shall find that the proposed application for a Site Plan satisfies the Site Plan Regulation requirements and the following additional conditions:

- a) Recreational Campgrounds and/or Camping Parks shall be licensed by all appropriate State Agency(s), if applicable.
- b) Internal roads shall be logically related to the topography so as to maximize vehicle safety, reasonable grades, and safe intersections.
- c) Campsites shall be graded toward the ditchline of the road or provisions shall be made to control the drainage from each campsite by an adequate drainage system.
- d) The internal and access roads shall be laid out so as to intersect at right angles, as nearly as possible. No road shall intersect another road at an angle of less than 60 degrees.
- e) The access road shall be laid out directly opposite of existing streets or with a minimum offset of 125 feet between the centerlines.
- f) Road names shall not duplicate, nor bear phonetic resemblance to the names of existing roads within the Town. Where practical, names shall have a historical connection.
- g) All internal roads shall be provided, when necessary, with adequate drainage facilities (culverts and ditches) to allow for the removal of stormwater runoff and to maintain natural drainage patterns. Construction of such facilities shall be done in accordance with New Hampshire Standard Specifications, 1990, Sections 603-605, as amended.
- h) Dead-end interior roads shall not exceed 1000 feet in length. A cul-de-sac shall be constructed at all dead-end roads to the minimum dimensional requirements as approved by the Planning Board and Fire Chief.
- i) All road layout plans shall be submitted to the fire chief and police chief for their review and approval.
- j) All road construction shall comply with (d) and (e) of the Sanbornton Subdivision Regulations for Road Construction Standards (Section C, Paragraph 12).
- k) An accessible, adequate, safe and potable supply of water shall be provided in each recreational campground. Where a public supply of sufficient quantity, quality, and pressure is available, connection shall be made to the supply and that supply shall be used exclusively. When a satisfactory public water supply is not available, a private water supply system may be used if approved by the Department of Environmental Services.
- l) A state approved wastewater disposal system shall be provided in all recreational campgrounds.

- m) Septage or wastewater shall be discharged from recreational vehicles or portable recreational toilets into portable sanitary service vehicles, individual sewage disposal system connections, or sanitary stations.
- n) Flush toilets or other approved toilet facilities shall be provided in all recreational campgrounds.
- o) The storage, collection, and disposal of refuse in recreational campgrounds shall be conducted in a manner that will prevent health hazards, nuisance wildlife attraction, rodent harborage, insect breeding, accident or fire hazards.
- p) Recreational campgrounds shall comply with the requirements of RSA 227-L, as amended, and obtain a fire permit for all fireplaces and fires. A proposed plan for fireplace and fire locations shall be presented to the fire chief for his review and approval.
- q) On-site lighting shall comply with Section V Paragraph F as outlined in the Town of Sanbornton Site Plan Review Regulations.
- r) All signage shall conform to the Town regulations for the underlying zone.
- s) The recreational campground shall be landscaped so as to enhance its compatibility with the area with emphasis given to the use and maintenance of existing, natural features and vegetation where possible.
- t) The total area of campsites, accessory structures, and impermeable surfaces shall not exceed 30% of the entire tract.
- u) Any pool construction shall be in conformance with state requirements.
- v) Support (accessory) facilities for the recreational campground may include recreational or community facilities. These proposed facilities shall be primarily for the needs of the recreational campground.
- w) Support facilities shall be proportional to the number of proposed campsites.
- x) No person who owns, manages, or has charge of any campground may allow, or cause to be allowed, the occupation of any campsite at a campground contrary to this ordinance, nor allow any person to reside at a campsite within a campground for other than recreational or temporary purposes.
- y) One residential home/office occupied by the Recreational Campground or Camping Park owner or manager and his or her immediate family will be permitted. This building will be required to meet the full lot requirements for a single-family residence based on the Zoning District in which the recreational campground or Camping Park is located, as well as to comply with all other codes and regulations.
- z) All applicable local, state and federal permits shall be obtained prior to granting final site plan approval.
- aa) The number of recreational vehicles and tent sites present shall not exceed the number of approved sites.
- bb) This zoning is only intended for the use and occupancy of tent sites and recreational vehicles as defined under Section 3 of this zoning.

(V) The Right to Farm [March 2002]

The right to farm is a traditional right of fundamental importance to the Town of Sanbornton, to those who are now farming in the Town and to those who may want to farm in the future. In order to safeguard and protect these basic interests, the right to farm, comprising all generally accepted agricultural practices, is expressly recognized and allowed as a permitted use, excepting any practices not conducted in accordance with state rules and regulations.

(W) Impact Fees [March 2002]

- 1) Declaration of Purpose and Intent** – The purpose of this Article is to authorize the planning board, as a condition of subdivision or site plan approval, to require a developer to pay reasonable fees and

exactions for off-site improvements occasioned by the proposed development, as authorized by the New Hampshire Supreme Court in cases such as *Land-Vest Properties, Inc. v. Town of Plainfield*, 117 N.H. 817 (1977) and *N.E. Brickmaster, Inc. v. Town of Salem*, 133 N.H. 655 (1990). In addition, this Article is intended to comply with the Court's ruling in *Simonsen v. Town of Derry*, No. 98-153 (November 15, 2000) that such fees and exactions cannot lawfully be imposed in the absence of an impact fee ordinance enacted pursuant to RSA 674:21, V.

- 2) **Authority of Planning Board** – The planning board may, as a condition of approval of any subdivision or site plan application, require an applicant to pay an impact fee representing the applicant's fair share of off-site improvements to existing or future public facilities affected or required by the proposed development. Nothing in this section shall be construed to:
 - (a) limit the existing authority of the planning board to disapprove proposed development which is scattered or premature;
 - (b) limit the existing authority of the planning board to disapprove proposed development which would require an excessive expenditure of public funds;
 - (c) limit the existing authority of the planning board to disapprove proposed development which would otherwise violate any applicable ordinance or regulation;
 - (d) limit the existing authority of the planning board to require off-site work to be performed by an applicant in lieu of paying an impact fee;
 - (e) limit the existing authority of the planning board to impose other types of conditions of approval; or
 - (f) affect or alter in any way fees governed by any other statute, ordinance or regulation.
- 3) **Amount of Impact Fee** – The amount of any impact fee shall be calculated by the planning board to be a proportional share of the costs of municipal capital improvements reasonably related to the capital needs created by the proposed development, and to the benefits accruing to the development from the capital improvements financed by the fee. Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.
- 4) **Accounting** – Pursuant to RSA 673:16, II and RSA 674:21, V(c), impact fees shall be held in a separate, nonlapsing account, shall not be commingled with other town funds, and shall be used solely for the capital improvements for which they were collected, or to recoup the cost of capital improvements made in anticipation of the needs which the fees were collected to meet. Such fees shall be paid out only upon order of the planning board or its designated agent.
- 5) **Assessment and Payment** – Impact fees imposed under this Article shall be assessed prior to, or as a condition for, final subdivision or site plan approval, and shall be paid prior to the issuance of any building permit, or at such other time as may be specified by the planning board. In the interim between assessment and payment, the planning board may require a developer to provide a bond, letter of credit or other suitable security to guarantee the future payment of assessed impact fees.
- 6) **Refund** – Any portion of an impact fee which has not been expended or legally bound to be expended for the purpose for which it was collected shall be refunded with accrued interest, if any:
 - (a) when the subdivision or site plan approval expires under the rules of the planning board, or under the terms of a decision of the planning board, where such approval has not become vested under RSA 674:39 and no extension of approval has been granted by the planning board;
 - (b) when the approval is revoked under RSA 674:4-a;
 - (c) when the approval is reversed by a final, unappealable judgement of a court of competent jurisdiction; or

(d) six years after the impact fee is paid, or six years after the date any extension of approval is granted by the planning board, whichever occurs last.

- 7) **Appeals** – Pursuant to RSA 674:21, V(f) and RSA 676:5, III the assessment of any impact fee under the authority delegated to the planning board by this Article cannot be appealed to the Zoning Board of Adjustment, but may be appealed only to the superior court as provided by RSA 677:15. Notwithstanding Article 18, the Zoning Board of Adjustment shall not have the authority to hear appeals of, or grant a variance from, the assessment of any impact fee.

ARTICLE 5 GENERAL AGRICULTURAL DISTRICT**A. The General Agricultural District shall enjoy the following provisions:**

- (1) It shall be mainly a District of farms and dwellings. No other purposes than those specified here will be permitted.
- (2) Tourist homes may be maintained and operated in this District.
- (3) Churches, schools, hospitals, sanatoria, golf courses and private non-commercial airfields are permitted in this District. [revised March 1992]
- (4) General farming, including horticulture, dairying, livestock and poultry raising, and other agricultural enterprises or uses, or the raising of animals for other purposes are permitted in this District.
- (5) Frontage: Every building lot shall have a minimum lot frontage of 220 feet. The minimum frontage for lots located on the exterior curve of a cul-de-sac shall be measured at the required setback line. This dimension shall be determined by measuring between points on each side line which are located thirty feet from the front property line.[revised March 1998]
- (6) Set-Back: The minimum distance between any right-of-way line and the nearest edge of any building or structure shall be 30 feet.
- (7) Side and Rear Set-Back: No building shall be located nearer than 10 feet of the property line.
- (8) Minimum Land Area: No dwelling or building shall be located on a lot of less than three (3) acres.
- (9) No privy, cesspool, septic tank, or sewage disposal area shall be constructed or maintained less than 75 feet from the edge of a public water body; from a well or from a dwelling other than to that to which it is appurtenant.
- (10) A manufactured home may be located any where in this District, provided that said manufactured home meets the requirements of American Standards Association Code Provision A119.1, 1963, and/or subsequent revisions, American Standard for installation in Manufactured Homes of Electrical, Heating and Plumbing Systems, or Manufactured Home Manufacturer's Association's "Manufactured Home Standards for Plumbing, Heating and Electrical Systems", and provided further that the frontage set-back, side and back yard, and the minimum land area requirements of this District are adhered to.

B. Description of General Agricultural District:[codified March 1999]

- (1) All areas which are not included in any other district shall be General Agricultural District.

ARTICLE 6 GENERAL RESIDENCE DISTRICT

- (1) It shall be mainly a district of farms and dwellings. All uses specified in Article 5, Paragraphs 2, 3, and 4 shall be permitted within this district. Manufactured home parks, manufactured homes, travel trailer parks and campgrounds shall not be permitted within this district.
- (2) Minimum Land Area: No dwelling or building shall be located on less than one and one-half (1 ½) acres.
- (3) Frontage: Every building lot shall have a minimum lot frontage of 175 feet. The minimum frontage for lots located on the exterior curve of a cul-de-sac shall be measured at the required setback line. This dimension shall be determined by measuring between points on each side line which are located thirty feet from the front property line. [revised March 1998]
- (4) Set-Back: The minimum distance between any right-of-way line and the nearest edge of any structure shall be 30 feet and there shall be at least 10 feet between any structure and side and rear property lines.
- (5) Description of General Residence Districts:[codified and revised March 1999]

Section 1: Chapel Area: Bounded on the northwest by the center line of Weeks Brook; on the east by Weeks Road; then on the north by Route 127 Gaza Corner; then on the east by Route 3B (132) to the Historical Preservation District (as shown on Drawing #SP71001); then on the Southeast by the Historical Preservation District; then on the southwest by Interstate Route 93; then on the south by Threshing Mill Brook and by the Franklin Town Line; then on the southwest by the Pemigewasset River to the point of beginning.

Section 2: Bay Road Area: Beginning at the Junction of Bay and Lower Bay Roads, then running northwest on the north and northeast side of Bay Road, and then northerly on the east side of Upper Bay Road, then southeast along Lower Bay Road to Black Brook Road, then east to the bounds of Winnisquam Recreation District (which is a line parallel and 1,000 feet from the lake shore), returning to Lower Bay Road on a common line with the aforesaid Recreation District to Cogswell Road, then returning to the point of beginning along the west side of Lower Bay Road, as shown on Drawing #SP71001.

ARTICLE 7 FOREST CONSERVATION DISTRICT**A. The Forest Conservation District shall enjoy the following provisions:**

- (1) It shall be mainly a district of large tracts of forest and open land, year-round and seasonal residences.
- (2) General farming and agricultural enterprises shall be permitted in this district.
- (3) Home products and produce may be exposed for sale and sold in this district.
- (4) A single manufactured home may be located in this district, provided that said mobile home meets the requirements of American Standards Association Code Provision A 119.1, 1963, and/or subsequent revisions, American Standard for Installation in Manufactured Homes of Electrical, Heating, and Plumbing Systems, or Manufactured Home Manufacturers' Association "Mobile Home Standards for Plumbing, Heating and Electrical Systems", and minimum land area requirements of this district are adhered to.
- (5) Frontage: Every building lot shall have a minimum lot frontage of 600 feet. The minimum frontage for lots located on the exterior curve of a cul-de-sac shall be measured at the required setback line. This dimension shall be determined by measuring between points on each side line which are located thirty feet from the front property line. [revised March 1998]
- (6) Set-Back: The minimum distance between any right-of-way line and the edge of any building shall be 35 feet.
- (7) Side and Rear Set-Back: No building or structure will be located nearer than 35 feet to any property line.
- (8) Minimum Land Area: No lot shall be less than 6 acres.
- (9) State Sanitary Regulations shall be adhered to.

B. Description of the Forest Conservation District [codified March 1999]

- (1) Knox Mountain Area: Bounded on the north, west, and south by town lines of Meredith, New Hampton, and the Pemigewasset River; on the southeast, east and northeast by Weeks Brook to where said brook crosses Weeks Road, then continuing by a line running parallel and 600 feet north and west of Brook and Hale Roads to Interstate 93 right-of-way northeasterly to the Meredith town line, excepting a strip 600 feet wide on either side of the town roads shown on Drawing #SP71001 which shall be part of the General Agricultural District as shown on Drawing #SP71001.B.
- (2) Hopkinson Hill Area: That area north of Hunkins Pond Road and the Historical Preservation District in the Square, bounded on the west by a line 600 feet east of Route 3B(132) to a point 600 feet south of Isaac Colby Road; then across Eastman Hill Road to a point 600 feet beyond; then by a line parallel said town line to a point 600 feet west of Black Brook Road; then by a line 600 feet northwest and parallel to Black Brook Road to Lower Bay Road, following a tributary of Black Brook northerly, and crossing Upper Bay Road; then running southerly on the west side of Upper Bay Road and 600 feet from it, to the Range Road; then 600 feet north of the Range Road, going westerly to the extension of Cram Road; then southerly 600 feet of said Cram Road

Extension to a point 600 feet north of Hunkins Road; then westerly to the point of beginning.
Excepting a strip 600 feet wide on either side of the town roads as shown on Drawing #SP71001
which shall be part of the General Agricultural District, as shown on Drawing #SP71001.

ARTICLE 8 RECREATIONAL DISTRICT

A. The Recreational District shall enjoy the following provisions:

- (1) It shall be mainly a district of seasonal dwellings and establishments open primarily for recreational and seasonal use.
- (2) Any use permitted in the General Residence and Agricultural District under the same provisions as apply to dwellings and all other establishments in said District except that trailers and/or manufactured homes and trailer and/or manufactured home parks are disallowed.
- (3) Frontage: Every building lot shall have a minimum lot frontage of 175 feet. The minimum frontage for lots located on the exterior curve of a cul-de-sac shall be measured at the required setback line. This dimension shall be determined by measuring between points on each side line which are located thirty feet from the front property line. [revised March 1998]
- (4) Minimum Land Area: No dwelling or building shall be located on less than one and one-half (1 1/2) acres.
- (5) No building shall be located within 10 feet of the side and rear property lines.
- (6) Set-Back: The minimum distance between any right-of-way line and the nearest edge of any building structure shall be 30 feet.
- (7) Where a seasonal dwelling is converted for year-round living purposes, it must conform to the same minimum frontage and area provisions which apply to dwellings in the General Residence District. [revised March 1998]
- (8) Sanitary Protection:
 - (a) No septic tank or sewage disposal area shall be constructed or maintained less than 100 feet from the edge of a public water body; from any well or from a dwelling other than that which it is appurtenant to. [revised March 1998]
 - (b) No waste waters or sewage shall be permitted to run free into a public water body or be discharged in any way that may be offensive or detrimental to the health of others. All such waste shall be conveyed away underground through use of an accepted sanitary system or in such a way that it will not be offensive to health.
 - (c) All dwellings and sanitary systems shall be constructed and maintained in accordance with the standards set and enforced by the New Hampshire State Department of Health and by the New Hampshire Water Pollution Commission.

(9) Lake Shore Lot Usage:

- (a) Scope: This shall regulate the use of privately owned Lake Shore Lots which are used by the occupants of two or more dwelling units.
 - (i) A lake shore lot is a plat of land from which access to a body of water can be gained. Body of water shall include lakes, ponds and rivers, available for use by more than one abutting landowner and/or the general public. Excluded are plats of land bordering brooks with only seasonal flow or inadequate flow to accommodate passage by small boats or canoes.
- (b) Swimming and Boating Area Standards:
 - (i) Area - A minimum of 800 square feet of land area shall be provide for each dwelling unit having a right to use such lake shore lot. For purposes of this section, a dwelling unit shall include any structure, or part thereof, or vehicle, stationary or mobile, which contains living and sleeping accommodations and is intended for occupancy by a single family or household. Any such structure or vehicle shall be considered a dwelling unit whether it be owned or rented or whether it be on land owned by the occupant or rented or leased. The term dwelling unit shall include but not be limited to: house, apartment units, camp, mobile home (manufactured home), overnight cottage, tourist home, motel, hotel or inn unit, tent, travel trailer, pickup camper, or other self-contained recreational living vehicle.
 - (ii) Lake Frontage - A minimum 100 linear feet of frontage, plus 10 linear feet per each planned dwelling unit over five dwelling units shall be provided.
- (c) Parking:
 - (i) One space of at least 350 square feet shall be provided for each dwelling unit which is more than 1/4 mile distant from the site.
 - (ii) Sufficient turn around and maneuvering area shall be provided so that vehicles may enter town roads while moving forward.
- (d) Sanitary Facilities: One approved permanent toilet each for males and females shall be provided for each 40 dwelling units or fraction thereof when dwelling units are in excess of 1/4 mile from the proposed site.
- (e) Subdivisions approved prior to the effective date of this amendment shall be excepted from the application of the amendment.

ARTICLE 9 HISTORICAL PRESERVATION DISTRICT

- A. The Historical Preservation District shall preserve the structures and places of historical and architectural value, safeguard the character of the district and provide for a harmonic relation between man and his natural environment.
- B. Use of land in the Historical Preservation District shall be limited to dwellings, public buildings, and home industries or home occupations as provided for under Article 18 of the Ordinance.
- C. The Historical Preservation District shall consist of a Village Historical Area and a Rural Historical Area as defined herein:
 - (1) The Village Historical Area shall be lots fronting on presently maintained town or state roads.
 - (2) The balance of the land in the Historical Preservation District shall be designated as the Rural Historical Area.
- D. Minimum Lot Sizes and Frontage:
 - (1) In the Village Historical Area no dwelling or building shall be located on less than one and one-half (1 1/2) acres. All building lots shall have a minimum frontage of 175 feet.
 - (2) In the Rural Historical Area no dwelling or building shall be located on less than three (3) acres with a minimum frontage of 220 feet.

ARTICLE 10 COMMERCIAL DISTRICT

A. The following land uses are permitted in the Commercial District:

- (1) Any uses permitted in the General Agricultural District.
- (2) Lodging houses, multiple family dwellings, hotels, inns, motels, tourist courts and cabins, retail shops, restaurants, gasoline stations, business offices.

B. The minimum lot size shall be 1/2 acre, but may be required to be larger depending on use, soil suitability and slope. Every lot shall have a minimum frontage of 125 feet bordering on a town or state road.

C. No buildings or part thereof shall be located within 10' of the side and/or rear of the lot. A minimum distance of 30' between a building or part thereof and any right-of-way line shall be maintained. No part of any building or appurtenance shall extend more than 30' high at the highest point than the level of the adjacent road, excluding advertising signs which are covered in Article 4-C of this Ordinance.

D. Off-street parking for all vehicles must be provided on the premises. Use of town roads for parking shall be prohibited. Sufficient space shall be included that vehicles can maneuver so as to enter the public road while moving forward. A parking area which by its design requires vehicles to enter the public road in reverse is specifically prohibited.

E. The total area covered by buildings and parking area shall not exceed 60% of the total area of the lot.

F. For each commercial use, or new and/or expanded use of land in the Commercial District, a Site Plan shall be submitted and approved by the Planning Board prior to said use. [revised March 1998]

G. Description of Commercial District(s): (Refer to attached map for location of Section 1 & Section 2)

Section (1): All land within 500 feet of the center line of U.S. Route 3 is zoned Commercial.[Adopted Petition Article March 13, 1979]t

Section (2): Bounded on the northwest by southern sideline of Philbrook Road. Bounded on the north by the centerline of an unnamed tributary to Lake Winnisquam (Tax Map 18 Lot 65). Bounded on the east by the shoreline of Lake Winnisquam. Bounded on the south by the centerline of Route 3. Bounded on the west by a line drawn 1000 feet from the western sideline of Bay Road.

Section (3): The Sanbornton General Store (Tax Map 20 Lot 75) between Route 127 and Salmon Brook.

Section (4): The Den Brae Club House Area: Starting on Prescott Road at an iron pin marking Den Brae Golf Course and Edward and Duncan and Alex Craig Property; then north 200 feet on Prescott Road, west on line of Den Brae 200 feet to iron pin; south by land of Den Brae 200 feet; and east 200 feet to point of beginning.

Section (5): North Sanbornton: Opposite Hermit Lake Road on the west side of Route 3B (132) and running back to Route 93, a total distance of 800 feet north from brook culvert under Route 3B (132).

H. Amendments to the Commercial District

- 1) Repealed Article 32 approved at Town Meeting, March 10, 1959, which extended “the present commercial area from the beginning of the Lower Bay Road up to and including Saunders farm and beach” and to return said land to the General Residence Zone. [March 1970]
- 2) Repealed Article 31 approved at Town Meeting March 10, 1959 which made the Roy Ruggles property (Tax Map 18 Lots 27 & 28 at the corner of Hunkins Road and Philbrick Road) part of the commercial zone and to return said Roy Ruggles property to the Agricultural Zone. [March 1970]
- 3) Light manufacturing companies are permitted in a portion of the Commercial zone as described as follows:
A parcel of land bounded on the south by northern sideline of Route 3. Bounded on the east the western sideline of Bay Road. Bounded on the north by a line (where so called Franklin Avenue intersects with Bay Road). Bounded on the west by a line drawn 1000 feet from the western sideline of Bay Road. Also, a 3.78 acre parcel of land (Tax Map 24 Lot 29) on the easterly side of Bay Road and the south side of so called Franklin Avenue formerly owned by the O’Callaghan Family Trust. [revised March 1999; Adopted Petition Article, March 13, 1984].

ARTICLE 11 HIGHWAY COMMERCIAL DISTRICT (recinded in 2005)**ARTICLE 12 AQUIFER CONSERVATION DISTRICT**

- A. Purpose and Intent: The Town of Sanbornton adopts this Ordinance for the promotion of the health, safety, and general welfare of its residents by protecting the ground water resources in certain areas of the town underlain by potentially productive unconsolidated aquifers from adverse development or land use practices (such as but not limited to the disposal or storage of solid wastes, sludge, subsurface waste disposal, road salting materials, gas or other petroleum products) that might reduce the quality and quantity of water that is now and in the future will be available for use by municipalities, individuals and industries. [March 1978]
- B. District Boundaries: The Aquifer Conservation District is defined as those areas which are delineated as having medium and high potential to yield ground water by the United States Geological Survey and shown on the Town Aquifer District Map (SP78001). Where the bounds, as delineated, are in doubt or in dispute the burden of proof shall be upon the owner(s) of the land in question to show where they should properly be located. At the request of the owner(s), the Planning Board may engage a professional geologist, hydrologist, or soil scientist to determine more accurately the location and extent of an aquifer area, and may charge the owner(s) for all or part of the cost of the investigation. The delineation can be modified by the Planning Board upon receipt of findings of the detailed on-site survey techniques.
- C. Relation to Districts: Where the Aquifer Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.
- D. Uses Permitted: (by Owners or Agents) The following uses are permitted in the Aquifer Conservation District:
1. **Recreation** - Aquifer areas may be used for recreation purposes; such as, biking, hunting, cross country skiing, tennis courts, recreation fields, parks, and other which pose no threat of contamination or pollution of the groundwater. No more than 10% of a lot or tract in the Aquifer Conservation District shall be covered with pavement, roofing, or other material impervious to water.
 2. **Agriculture** - Aquifer areas may be used for agricultural purposes such as cultivation and harvesting of crops, pasture and grazing, outdoor plant nurseries, orchards, silvaculture. Agricultural uses and/or operations which pose a possible threat to ground water contamination, such as but not limited to animal feedlots, manure storage, spraying or spreading of chemical fertilizers or pesticides may be permitted subject to approval of the Board of Adjustment. (see Article 18-B-9)
 3. **Development** - Low density, single-family residential development is permitted, subject to special conditions listed in Paragraph E, after detailed on-site investigation determines that sewage disposal systems and access roads can be constructed and maintained without contamination of the ground water nor diminishing there charge capability of the aquifer. No more than 10% of a lot or tract shall be covered with pavement, roofing or other material impervious to water.

E. Special Conditions:

1. Lot size - The minimum lot size in the Aquifer Conservation District is 6 acres.
2. Site Plan - Any proposal for construction or development within the Aquifer Conservation District shall include a site plan indicating:
 - a. All proposed subsurface disposal of waste materials,
 - b. Proposed excavations and/or earth moving operations which alter the slope or composition of the soil,
 - c. Proposed methods of conveying water from roads, paved surfaces, and
 - d. Any proposed diversion of ground or surface waters on or adjacent to the site.
3. The Planning Board may engage such professional assistance as it requires to assist in evaluation of the site plan prior to approval and may charge the owner(s) for all or part of the cost of the evaluation.

ARTICLE 13 FLOODPLAIN CONSERVATION DISTRICT

A. Purpose and Intent: The purpose of the Floodplain Conservation District is to protect the public health, safety and general welfare by controlling and guiding the use of land areas subject to periodic flooding. It is intended that the provision of this District shall:

- (1) Promote the general health, safety and welfare of the community through certain restrictions on the use of land located within the floodplain.
- (2) Prevent the erection of structures in areas unfit for human usage by reason of danger from flooding, unsanitary conditions or other hazards.
- (3) Reduce the financial burdens imposed on the community, its governmental units and its individuals by frequent and periodic floods and overflow of lands.
- (4) Permit appropriate uses to be located in the floodplain as herein defined, which will not impede the flow of flood waters, or other wise cause danger to life and property at or above or below their locations along the floodway.
- (5) Permit only those uses in the floodplain compatible to the preservation of natural conditions which are conducive to the maintenance of constant rates of water flow throughout the year;
 - (a) Withholding rapid water runoff contributing to downstream flooding, and
 - (b) Providing area for ground water absorption for maintenance of the subsurface water supply.

B. District Boundaries

- (1) Definition - Floodplain: Land Designated as Flood Hazard Areas within the 100 year flood boundary as set forth in the Flood Insurance Study and the accompanying Flood Insurance Rate Map and Flood Boundary and Floodway Map for the Town of Sanbornton, New Hampshire, are subject to periodic inundation and are subject to the following restrictions on their development.
- (2) Establishment of District: The limits of the Floodplain Conservation District are hereby determined to be areas subject to 100 year flooding and include all areas shown (as A Zones) within the 100 year flood boundary on the Flood Insurance Rate Map and Flood Boundary and Floodway Map for the Town of Sanbornton.
- (3) Floodplain Incorrectly Delineated: Where it is alleged that an area has been incorrectly delineated as a floodplain or that an area not so designated was subsequently found to meet the criteria for floodplain designation, the Planning Board shall determine whether the regulations contained herein have application. The Planning Board shall make their judgment under this section subsequent to the determination by Federal Insurance Administration on the basis of suitable research that information contained on the Flood Insurance Rate Map and Flood Boundary and Floodway Map is incorrect. Any evidence presented shall be acceptable only when presented in written form to the Planning Board.

C. Relation to Districts

Where the Floodplain Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.

D. Uses Permitted (By Owners or Agents)

The following uses are permitted in the Floodplain Conservation District:

- (1) Cultivation and harvesting of crops according to recognized soil conservation practices.
- (2) Pasture, grazing lands.
- (3) Outdoor plant nursery, orchards.
- (4) Parks and recreation uses consistent with the purposes and intentions of this District.
- (5) Forestry-Tree Farming, excluding storage and mill structures.
- (6) Wildlife refuge, woodland preserve, arboretum.
- (7) Sealed public water supply wells.
- (8) Inclusion of floodplain lands within residential lots in order to meet minimum lot area or yard requirements when such use is consistent with the purposes and intentions of this District and all other pertinent municipal regulations. Use of floodplain areas for such a purpose is contingent upon the remaining lot area being sufficient in size and configuration to adequately accommodate all required utilities, such as sewage disposal, both original and replacement leach fields and water supply. No minimum size residential lot may have greater than 50% of its area in the Floodplain Conservation District.

E. Municipal Liability

The granting of a permit to use or approval of a subdivision plan which may include land in a floodplain district shall not constitute a representation, guarantee or warranty of any kind by the municipality or by any official or employee thereof of the practicability or safety of any structure or other plan proposed and shall create no liability upon, nor cause action against public body, official, or employee for any damage that may result pursuant thereto.

ARTICLE 14 SHOREFRONT DISTRICT

- I. Purpose and Intent: Most of the land immediately adjacent to New Hampshire's lakes, ponds and rivers is overlaid by soil types characterized by above average erosion and drainage hazards. These lands require conservation and land management practices which minimize environmental and aesthetic degradation. The following restrictions are applicable to land within the designated shorefront district. They are designed to protect and enhance water quality, prevent overcrowding of the shorefront in the interest of public health and safety, and to preserve the natural beauty and wildlife habitat of the shorefront areas in the Town of Sanbornton.
- II. Location of the Shorefront District: The Shorefront District extends to a line 300 feet inland from the shoreline at the normal high water level on all lakes and ponds over ten acres. The Shorefront District is an environmental overlay district superimposed over the conventional zoning map of the Town. In case of conflict, the more restrictive regulation shall apply.
- III. Permitted Uses: The following uses are permitted provided that they shall be conducted according to the applicable provisions.
 - A. Docks for boating, and swimming facilities, subject to other provisions of this ordinance.
 - B. Residences, provided that all buildings shall be set back a minimum of 40 feet from the shoreline at the normal high water level and constructed in accordance with the erosion control requirements of Paragraph V.
 - C. Sub-surface sewage disposal facilities, provided that any leach field shall be set back a minimum of 100 feet from the shoreline at the normal high water level. A greater setback where more than one dwelling uses common sewage disposal facilities may be required. [revised March 1998]
 - D. Roads, provided that the traveled portion shall be set back a minimum of 75 feet from the shoreline at the normal high water level except for bridges and bridge approaches and access ways for fire fighting equipment and boat launching. All roads shall be constructed in accordance with an erosion and sedimentation control plan approved by the Planning Board in accordance with Paragraph V and shall meet Town standards.
 - E. Beach and dock construction, provided that all alterations of the shorefront, including beach and dock construction require a permit from the New Hampshire Department of Environmental Services Wetlands Bureau as set forth in RSA 482. [revised March 1998]
 - F. Expansion and/or construction of unroofed impervious ground cover within the 40 foot setback area measured from the high water mark, not to exceed five percent (5%) or two hundred (200) square feet of the setback area, whichever is less. [March 1992]

IV. Beaches, marinas, condominium docking facilities, community docking facilities and commercial docking facilities A proposal for a beach, marina, condominium docking facility, or commercial docks, provided it is permitted in the underlying use district, shall be subject to site plan review by the Planning Board and shall be subject to the following minimum standards. All construction in or on of all surface water, as set forth in RSA 482 A:3 and as further defined in Administrative rules Wt 100 - 800, requires a permit from the New Hampshire Department of Environmental Services Wetlands Bureau. [revised March 1998]

- A. A marina, condominium docking facility, community docking facility, commercial docking facility, dry storage facility or any combination thereof, accommodating more than eight (8) boats shall contain a minimum lot area of one (1) acre plus three thousand (3000) square feet for each additional boat slip or dry storage space in excess of eight (8).
- B. If winter boat storage is proposed, the plan shall include a design for winter boat storage facilities, consistent with Paragraph IV.A. above. No part of any storage facility shall extend more than thirty (30) feet above natural grade at any point abutting the building.
- C. Parking shall be provided at the rate of one space for each boat slip and for each dry storage space.
- D. One toilet and one shower and sink each for males and females shall be provided for each 25 boat slips or dry storage space or fraction thereof, except for spaces exclusively for winter storage.
- E. A pumping facility for the removal of holding tank waste shall be provided. The facility shall meet all standards established by the New Hampshire Water Supply and Pollution Control Commission and any other applicable state regulations.
- F. The Planning Board may, by regulation, provide less restrictive regulations for docking facilities for eight or fewer boats.

V. Erosion Control

- A. Construction. Erosion and sedimentation control plans shall be required for all filling, grading, dredging, and other activities requiring land disturbance. Plans shall describe the nature and purpose of the land disturbing activity: the amount of grading involved, description of soils, topography, vegetation, and drainage. The Planning Board shall review all plans and may require the applicant to post a bond or other security, before construction begins, payable to the Town to assure conformance with the approved plans. The bond shall be approved by the Planning Board and legal counsel of the Town and conditioned upon satisfactory completion of all required improvements within 12 months of the date of bonding. The bond shall not be released until the Planning Board certifies completion of the required improvements in accordance with the plan.
- B. Any development shall conform to guidelines of the U.S.D.A. Soil Conservation Service, and with N.H.W.S.P.C.C. guidelines under RSA 149:8-A.
- C. Cutting and removal of natural vegetation. Where natural vegetation is removed it shall be replaced with other vegetation that is equally effective in retarding runoff and erosion and preserving natural beauty.

- VI. Alteration of Existing Uses: Any relocation or alteration in the bulk of any building or other structure within the shorefront district shall require a permit from the Selectmen. Before a permit is issued, the following conditions must be met:
- A. The applicant shall supply a certificate of inspection from the Town Health Officer certifying that the sewage disposal system meets current standards of the New Hampshire Water Supply and Pollution Control Commission and the Town. If the existing sewage disposal system is found to be inadequate, an approved system shall be installed before a building permit is issued.
 - B. The applicant must demonstrate that site conditions and land area are adequate for installation of a replacement sewage disposal system should the existing sewage disposal malfunction or fail or that the applicant is connected to a Town sewer.

ARTICLE 15 WETLANDS CONSERVATION DISTRICT**A. Title and Authority**

- (1) This ordinance shall be known as the "Wetlands Conservation District Ordinance of the Town of Sanbornton, N. H.", adopted March 1976 and as amended.
- (2) By the authority granted in NH RSA 482-A:15, 674:16-17, and 674:20 and in the interest of public health, safety and general welfare, the Sanbornton Wetlands Conservation District Ordinance is hereby established to regulate the uses of lands subject to standing water, flooding or high water tables for extended periods of time. [revised March 1998]
- (3) The Wetland Conservation District serves as an overlay zone which applies to all zoning districts [2006].

B. Purpose and Intent

The purpose of the Wetland Conservation District is to protect the public health, safety, and general welfare by controlling and guiding the use of land areas which have been found to be subjected to high water tables for extended periods of time. It is intended that the provisions of this District shall:

- (1) Prevent the development of structures and land uses on naturally occurring wetlands which will contribute to pollution of surface and groundwater by sewage or toxic substances.
- (2) Prevent the destruction or significant changes to natural wetlands which provide flood protection during wet periods and augmentation of stream flow during dry periods.
- (3) Protect unique and unusual natural areas.
- (4) Protect residents against the dangers of increased flooding by retaining natural flood storage and flood-moderating capability of wetlands.
- (5) Protect wildlife habitats and maintain ecological balances.
- (6) Prevent unnecessary or excessive expenditure of municipal funds for the purposes of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands.
- (7) Encourage those low-intensity uses that can be harmoniously, appropriately and safely located in wetlands.
- (8) Maintain water quality by preserving the ability of wetlands to filter pollution, trap sediment, retain and absorb chemicals and nutrients and produce oxygen.
- (9) Preserve water sources such as streams and brooks which make up the Watershed Area for a Prime Wetland.

C. District Boundaries

(1) Definition -

- (a) Wetland - An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. [revised March 1998]
- (b) Prime Wetlands - Those areas designated as Prime Wetlands in accordance with RSA 483-A:7 as identified in the report, Prime Wetlands Evaluation, Sanbornton, New Hampshire, September 1988:
 - Drake Road/Plummer Road
 - Hermit Lake Floating Bog Islands
 - Cawley Pond/Salmon Brook
 - Rollins Pond/Salmon Brook
 - Giles Pond/ Salmon Brook
 - Chapman Brook Outlet
 - Black Brook Outlet

(2) Delineation of Wetland Boundaries. [revised March 1998]

- (a) Wetlands shall be delineated on the basis of hydrophytic vegetation, hydric soils, and wetland hydrology in accordance with the techniques outlined in the Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, (January 1987).
- (b) Delineation based on hydrophytic vegetation or hydric soils alone shall be sufficient for minor subdivisions provided the vegetation or soil has not been disrupted by artificial planting or past alterations.
- (c) The Hydric soils component of a delineation produced under (a) or (b) above shall be determined in accordance with the manual, Field Indicators for Identifying Hydric Soils in New England (May 1, 1995), published by the New England Interstate Water Pollution Control Commission.

(3) Wetlands Incorrectly Delineated

- (a) Where it is determined that an area has been incorrectly delineated as a wetland or that an area not so designed was subsequently found to meet the criteria for wetlands designated, the Planning Board shall determine whether the regulations contained herein have application.
- (b) The Planning Board shall make their judgment under this section upon the determination by
a qualified consultant on the basis of additional on-site investigation or other suitable research. This evidence shall be acceptable only when presented in written form to the municipality. Any necessary investigation or studies shall be conducted at the expense of the landowner, applicant or developer. (revised March 1998)

- (c) Watershed Protection Area - Shall mean an area of land surrounding wetlands for the purpose of limiting the encroachment of uses which may contribute to the pollution of surface and groundwater, and prevent the destruction of watershed areas and wetlands which provide flood protection. The following streams make up the Town Watershed System and are shown on Sanbornton Planning Board Map SP76002.

Salmon Brook

Tributaries - Emerson Brook, unnamed, Giles Brook & unnamed, Hermit Brook & two unnamed (near Tilton Bridge Rd.), Threshing Mill Brook & two unnamed.

Gulf Brook (Wetlands along Route 93)

Parsonage Brook (Through Hunkins Pond Rd wetlands)

Chapman Brook (Through prime wetlands)

Tributaries - Patterson Brook & its Tributaries Wallis Brook, Unnamed Brook, Unnamed - into lake Winnisquam (through long wetlands area Hunkins Pond Rd., Upper Bay Rd., Poplar Rd.)

Black Brook (Prime Wetlands)

Tributary Unnamed and it's Tributaries.

Hadley Brook (into Hermit Lake)

Tributaries - Two unnamed

Knox Brook - (+Tributaries)

Weeks Brook- (+Two Tributaries)

Two unnamed- (into Hermit Lake)

D. Relation to Other Districts

Where the Wetland Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.

E. Uses Permitted by Owners or Agents

- (1) Prime Wetlands: Uses permitted in Prime Wetlands shall be those permitted by the New Hampshire Department of Environmental Services Wetlands Bureau acting under N. H. RSA 482 as amended and as further defined in Administrative Rules Wt 100 - 800. (revised March 1998)

- (2) Wetlands: Permitted uses are those uses that: will not require the erection or construction of any structure or building; will not alter the natural surface configuration by the addition of fill or by dredging; and otherwise permitted by the Zoning Ordinance. Such uses may include the following:
- (a) Forestry - Tree Farming.
 - (b) Cultivation and harvesting of crops according to recognized soil conservation practices.
 - (c) Wildlife refuge, woodland preserves, arboretum.
 - (d) Parks and recreation uses consistent with the purpose and intent of this District.
 - (e) Conservation areas and nature trails.
 - (f) Inclusion of wetland areas within residential lots in order to meet minimum lot areas or yard requirements when such use is consistent with the purposes and intentions of this District and any other pertinent municipal ordinances. A minimum residential lot may have not more than 50% of its area in the Wetlands Conservation District, contingent upon the remaining lot area being sufficient in size and configuration to adequately accommodate all required utilities, such as sewage disposal - both original and replacement leach-fields - water supply.
 - (g) Uses permitted by special exception according to Article 18 B (7).

F. Buffer Zones: The following dimensions establish the buffer zones for Wetlands, Prime Wetlands, and setbacks from all water courses, brooks, streams, and ponds, in the Town Watershed Protection area with the exception of Hermit Lake and Lake Winnisquam (which are regulated by the Shorefront District).

1. Buffer zone

	Building	Septic	Commercial Excavation
a. Prime Wetland	150	150	150
b. Wetland	75	100	100
c. Watershed Protection Area			
i. year round streams, brooks and ponds	75	100	100
ii. seasonal streams, brooks and ponds	75	100	50

- 2. The dimensions required in F.1 above, shall be horizontal dimensions from the wetland boundary and/or the high water mark of watercourses and water bodies.
- 3. Excavation below the high water mark of streams, brooks and ponds shall not be permitted within the Buffer Zone.

G. Pre-existing Uses:

1. Structures and uses existing at the time of the adoption of this ordinance may be continued.
2. Where an existing structure within the buffer zone is destroyed or is in need of extensive repair it may be rebuilt but not expanded provided that such rebuilding is completed within one year of the event causing the destruction of the structure.
3. Re-establishment of a non-conforming use after a discontinuance of one year is not permitted.

ARTICLE 16 STEEP SLOPE CONSERVATION DISTRICT

A. Purpose and Intent: The purpose of the Steep Slope Conservation District is to protect the public health, safety, and general welfare by controlling and guiding the use of land with slopes greater than 15%, because these areas are especially subject to erosion and excess runoff. It is intended that the provision of this ordinance shall:

- (1) Promote the general health, safety, and welfare of the community through restrictions on the uses of land within the Steep Slope District;
- (2) Reduce damage to streams and lakes from erosion, runoff of storm water caused by improper or excessive construction, or effluent from improperly sited sewage disposal systems;
- (3) Preserve vegetative cover and wildlife habitat, protect unique and unusual natural areas and maintain ecological balance; and
- (4) Permit those uses of land which can be harmoniously, appropriately and safely located on steep slopes.

B. Definition and Delineation

- (1) Definition: "Steep Slopes": A Steep Slope is any area with a dominant slope greater than 15%.
- (2) District Delineation: The Steep Slope Conservation District includes all areas shown as having steep slopes on the Sanbornton Slopes Map (SP77001).
- (3) District Incorrectly Delineated: Where it is alleged that an area has been incorrectly delineated as a Steep Slope, or that an area not so designated is a steep slope, the Planning Board will determine whether the regulations contained herein apply.
- (4) The Planning Board shall have the discretion to waive the six-acre minimum lot size requirement for proposed lots in which more than fifty (50%) percent of the proposed lot area contains slopes of less than fifteen (15%) percent, provided that the proposed lot satisfies the following further requirements:
 - (a) Contains at least one contiguous area of 40,000 square feet, e.g. a two hundred (200') foot by two hundred (200') foot rectangle within which all slopes are less than fifteen (15%) percent, suitable for the location of a dwelling, garage and other appurtenances; and
 - (b) Unless accessible to public sewer, contains an additional contiguous area with less than 15% slopes and soils suitable for a septic system which is located and which:
 - (i) Measures at least one hundred (100') feet by two hundred (200') feet; or
 - (ii) Contains sufficient area which the Board finds satisfies the intent of this subsection; and
 - (c) Provides for reasonable access from a Class I through Class V public highway to the buildable area defined in Section (1) above. The Board may consult the fire and police department to assess the ability of emergency vehicles to safely access the site.

- C. Relation to Other Districts When the Steep Slope Conservation District is superimposed over another zoning district, the more restrictive regulations shall apply.
- D. Uses Permitted by Owners or Agents
- (1) Recreation: Steep slope areas may be used for recreation purposes; such as hiking, hunting, cross country skiing and others which do not alter the natural surface configuration or vegetative cover of the land.
 - (2) Agriculture: Steep slope areas may be used for agricultural purposes which can be and are conducted in a manner consistent with optimum soil conservation practices.
 - (3) Logging: Logging is permitted subject to the provisions of RSA 149, Section 8-a, to minimize soil erosion or long-term damage to the area.
 - (4) Development: Low density, single-family residential development is permitted if detailed on-site investigation determines that sewage disposal systems and access roads can be constructed and maintained without having an adverse impact upon the ecology of the area.
- E. Special Conditions
- (1) Lot Size: The minimum lot size in the Steep Slope Conservation District is 6 acres.
 - (2) Development: Any proposal for construction or development within the Steep Slope Conservation District shall include:
 - (a) A plan indicating how the proposed development will adequately provide for stormwater runoff.
 - (b) A plan for maintenance and/or reclamation of vegetative cover.
 - (c) These plans must be approved by the Planning Board before any permits can be issued. In addition, the Selectmen may require a performance bond to assure that the approved plans are implemented.
 - (3) Reclamation: In all situations where construction or use has caused a disturbance of the natural terrain and/or vegetative cover, such terrain/cover shall be restored as closely as feasible to the original condition by the owner/agent and maintained until conditions are stabilized.

Description of Historical Preservation Area:

The Historical Preservation District shall be an area surrounding Sanbornton Square, bounded on the east by Parsonage Brook, on the north by the line of the Forest Conservation Area, on the west by Interstate 93, and on the south by the town line of Tilton as shown on Drawing #SP72001.

ARTICLE 17 NON-CONFORMING USES AND BUILDINGS (See Definitions 18 and 19)

- A. Non-Conforming use: Continuance of such non-conforming use is permitted.
- (1) Change to a different non-conforming use is not permitted.
 - (2) Re-establishment of non-conforming use after a discontinuance of one year is not permitted.
 - (3) A non-conforming use may be expanded only with the permission of the Zoning Board of Adjustment, and only within the limits of the lot on which it existed at the time of passage of that portion of the Zoning Ordinance which caused it to become non-conforming.
 - (4) Continuance of a non-conforming use of land for excavation or removal of earth material is not permitted.
- B. Non-Conforming Buildings: Continuance of such non-conforming buildings is permitted.
- (1) Extension and/or enlargements of such buildings is permitted so long as such alteration does not bring any part of said structure nearer than 10 feet from side and rear property lines and 30 feet from the right-of-way line.
 - (2) In the event of destruction of less than 75% of its value any non-conforming building or appurtenance may be re-built by the owner on record at the time of the destruction on the existing foundation provided such reconstruction is begun within one year.
- C. Non-Conforming Lots: A non-conforming lot may be built upon provided that all other requirements of this ordinance are met and, provided that the lot, before the adoption of the requirements which have made it non-conforming:
- (1) Was lawfully laid out by plan or deed duly recorded in Belknap County Registry of Deeds; or,
 - (2) Was otherwise exempt from such requirements by the provisions of statute, and conformed to the area and frontage requirements of the zoning ordinance applicable at the time of its creation.

ARTICLE 18 BOARD OF ADJUSTMENT

The Board of Adjustment shall function in accordance with powers granted in New Hampshire Revised Statutes Annotated (NH RSA). The Board of Adjustment shall conform in membership and terms of office as provided under NH RSA 673:3 and 673:5. The Board of Selectmen is designated the Appointing Authority for the Board of Adjustment. As terms expire or vacancies occur, the Appointing Authority shall be responsible for filling vacancies so as to maintain full membership on the Board of Adjustment. Subject to NH RSA 674 and 676, the Board of Adjustment may:

- A. At a public hearing, hear, and subsequently decide upon appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official (any town officer, department, board of commission) in the enforcement of NH RSA, or the Town of Sanbornton Zoning Ordinance.
- B. At a public hearing, hear, and subsequently decide upon appeals for special exceptions to the terms of the Zoning Ordinance upon which the Board is required to pass under the ordinance as follows:
 - (1) Permit an outdoor recreational facility in all districts subject to site plan approval by the Planning Board. [March 2000]
 - (2) Permit the establishment and operation of a motel in the Highway Commercial District subject to the following conditions:
 - (a) Minimum Land Area: No lot shall be less than 80,000 square feet.
 - (b) Set-Back: There shall be from the edge of the nearest right-of-way and the extreme front of any building a minimum distance of 150 feet.
 - (c) Side and Rear Set-Backs: No building shall be located within 25 feet of any side or rear property lines.
 - (d) Shielding: A solid fence at least 6 feet in height or a solid barrier of evergreens shall be provided at the side and rear property lines.
 - (e) Off-Street Parking: At least one parking space for each motel unit shall be provided.
 - (3) Permit the use of land for the excavation or removal of earth material for commercial use or sale within the Town or outside the Town, or the use of land for depositing garbage, rubbish, waste material or by-products but only after due public hearing, at which time a plan shall be submitted by the owner or operator of the property concerned. The plan shall contain a detailed description including a time schedule of the proposed activity, a description and map of the area affected in relation to the entire parcel, a statement of the environmental impact of the proposed project, and a plan for the reclamation of the affected area. No permit shall be granted until the plan is approved and it is found that:
 - (a) The activity will not impair the health or property of others or create a hazard to life or property generally.
 - (b) That the operation will not have an adverse impact on the environment, including but not limited to pollution of streams and other surface waters, pollution of air, landslides or cave-

ins, stagnant water, flooding, and damage to a known aquifer; and that the operation will not have an adverse effect on Town maintained roads. The Board of Adjustment must require adequate surety to repair Town roads where adverse effect on Town roads is in question. The Board must also require that operators improve Town roads when in the opinion of the Board of Adjustment the road is incapable of handling anticipated hauling. Additionally, the operation shall not adversely impact the normal flow of traffic or use of Town roads by residents. The Board may impose restrictions on Commercial vehicles hauling to and from the operation to insure this requirement is met.

- (c) The accepted plan shall be binding upon the owner/operator and his heirs or assigns. Upon completion of the reclamation by the owner/operator, he shall notify the Board of Selectmen. The selectmen shall be responsible for an on-site inspection of the reclaimed site and upon finding that the reclamation plan has been fulfilled, may release any portion or all of the surety.
- (d) The Town may draw upon sources of gravel and other road building materials for the purpose of public use within the town without the above hearing and permit; however, the provision for restoration shall apply.
- (e) The requirements of NH RSA 485-A:17 and NH RSA 155-E and as from time to time amended have been met.
- (f) The Selectmen, or their appointed agents, shall be responsible for the enforcement of the conditions of any special exception and shall have all the enforcement powers described in RSA 676:15, and RSA 676:17-a. In addition, any exception shall be subject to the fines and penalties set forth in RSA 676:17.

In instances where RSA 155-E:10 requires the "regulator" to enforce the terms of RSA 155-E, the Zoning Board of Adjustment, as regulator, shall be responsible for any enforcement action for violations of RSA 155-E. [revised March 1994]

- (4) Permit a non-conforming temporary use for an initial period of not more than two years. Permits may be renewed by the Board of Adjustment for successive periods of not more than one year.
- (5) Permit special exceptions in the Floodplain Conservation District where the application has been referred to the Planning Board, the Conservation Commission, and to the Health Officer by the Board of Adjustment for review and comment at least forty-five days prior to the hearing:
 - (a) Non-paved or porous parking facilities which do not involve structures and which will be used for a short-term storage of vehicles and/or equipment. This storage should not include materials which, in the judgment of the Board of Adjustment, cannot be moved easily in the event of emergency.
 - (b) The undertaking of a use not otherwise permitted, but not expressly prohibited below, if it can be shown that such proposed use is consistent with the Purpose and Intent of the Floodplain Conservation District Article and if such proposed use is otherwise permitted in the Zoning Ordinance. Uses expressly prohibited are:

- (i) All structures and building with the exception of flood retention dams, culverts and bridges which are in compliance with other municipal and state regulations. [March 1992]
 - (ii) The filling of floodplain, removal of top soil, or damming or relocation of any water course in the floodway. With the appropriate municipal and state approvals, exceptions may be permitted in the floodway fringe.
 - (iii) Sanitary landfill, dump, junkyard, and outdoor storage of vehicles and/or materials.
 - (iv) On-site sewage disposal systems or designations of any area within the floodplain as the future site of a replacement leach field.
- (6) Permit special exceptions in the Wetlands Conservation District where the application has been referred to the Planning Board, the Conservation Commission, and to the Health Officer by the Board of Adjustment for review and comment at least forty-five days prior to the hearing:
- (a) Streets, roads and other access ways and utility right-of-way easements, including power lines and pipe lines if essential to the productive use of land not so zoned and if so located and constructed as to minimize any detrimental impact of such uses upon the wetland.
 - (b) Water impoundments.
 - (c) The undertaking of a use not otherwise permitted in the Wetlands Conservation District, if it can be shown that such proposed use is consistent with the Purpose and Intent of the Wetlands Conservation District and if such proposed use is otherwise permitted by the Zoning Ordinance.
- (7) Permit the expansion of a non-conforming use subject to the following conditions:
- (a) Preliminary site plan approval has been granted by the Sanbornton Planning Board if required under the Site Plan Ordinance.
 - (b) Both the current use and the proposed expanded use does not/will not offend by reason of emission of smoke, dust, gas, noise, odor, or fumes. The proposed expansion will not be unsightly and will not diminish or detract from the value of real estate in the area, nor be offensive to or incompatible with use of properties in the area, the general purpose of this ordinance and the official map, and will not increase traffic hazards.
 - (c) Following a public hearing, to authorize upon appeal in specific cases such variance from the terms of the Town of Sanbornton Zoning Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and justice done.
 - (d) Act in other matters concerning the Town of Sanbornton Zoning Ordinance according to powers specifically granted in NH RSA, and as amended.
- (8) Permit by special exceptions in the Aquifer Conservation District:

- (a) Spraying or spreading of chemical fertilizers.
 - (b) Spraying or spreading of herbicides or pesticides.
 - (c) Storage of manure.
 - (d) Animal feedlots, however, the Board must find that the use will not pose a significant source of contamination to or reduction of the aquifer recharge capability. The findings shall be supported by qualified professional testimony and documentation. The Board of Adjustment may charge the owner(s) for all or part of the cost of the professional testimony and documentation.
- (9) Permit the conversion of a single-family dwelling to a two-family dwelling where it can be shown that such conversion will not have an adverse effect on property values, nor jeopardize the health, safety, or welfare of the occupants or the neighborhood. Written approval of the Fire Chief, Police Chief, and Health Officer must be presented by the applicant. (Owners of existing two-family dwellings shall have one year from passage of this ordinance to apply for a permit to continue such use.) [revised March 1995]
- (10) Permit an addition to a dwelling or seasonal dwelling as a special exception to the shorefront district within forty (40) feet from the normal high water level or water's edge subject to the following conditions:
- (a) The dwelling or seasonal dwelling existed during or prior to 1985.
 - (b) No point on the proposed addition is closer to the high water level than the closest point on the existing dwelling or seasonal dwelling.
 - (c) The portion of the proposed addition within the 40 foot setback is not larger in area of ground coverage, nor higher than the portion of the existing dwelling or seasonal dwelling that is within the 40 foot setback. [revised March 1995]
 - (d) The provisions of this paragraph may be applied only once for each dwelling or seasonal dwelling.
 - (e) The proposed addition complies with all other provisions of the ordinance. [March 1988]
- (11) Permit the subdivision of contiguous lots consisting of one or more non-conforming residential lots subject to the following conditions:
- (a) The pre-existing lots were in separate ownership and in conformity to the law at the time of the adoption of the requirements which made one or more of them non-conforming.
 - (b) Each of the pre-existing lots contained a habitable single family residence at the time of merger, and the residence on each lot has continued to be occupied at least a part of each year during the period when there was unity of ownership.
 - (c) There is adequate water supply for each pre-existing lot.

- (d) Unless served by public sewer, there is adequate area for sub-surface disposal for each pre-existing lot.
 - (e) There is adequate means of access and egress to each pre-existing lot.
 - (f) The Zoning Board of Adjustment shall, where appropriate, require the applicant to adjust the common boundary line to bring both lots into greater conformity with the intent of the zoning ordinance and the town plan. In such case, the special exception will be subject to the approval of the adjustment in boundary line by the Planning Board. [March 1991]
- C. Following a public hearing, to authorize upon appeal in specific cases such variance from the terms of the Town of Sanbornton Zoning Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and justice done.
- D. Act in other matters concerning the Town of Sanbornton Zoning Ordinance Regulations according to powers specifically granted in NH RSA, and as amended.

ARTICLE 19 AMENDMENTS

This ordinance may be amended by approval of a majority of voters present and voting by ballot at any legal (annual or special) Town Meeting when such amendment has been proposed by the Planning Board or Board of Selectmen in accordance with the procedure set forth in NH RSA 31:63-A, and as amended. The Ordinance may also be amended by a majority of voters present and voting by ballot at the annual Town meeting only, when such amendment has been proposed by petition of twenty-five voters in accordance with the procedure set forth in NH RSA 31:63-B, and as amended.

ARTICLE 20 ENFORCEMENT

- (1) It shall be the duty of the Board of Selectmen and the Board is hereby given power and authority to enforce the provisions of this Ordinance.
- (2) The Board of Selectmen shall issue any and all building permits requested when such permit is in accordance with the provision of this Ordinance.
- (3) After passage of this Ordinance, it shall be unlawful to erect any structure, or building, or alter the bulk of any building or relocate any building except accessory building, in any district, without first obtaining a building permit from the Board of Selectmen.
- (4) No permit shall be required for remodeling where the purpose for which the building is to be used is not changed.
- (5) Upon any well-found information that this Ordinance is being violated, the Board of Selectmen shall take immediate steps to enforce the provisions of this Ordinance by seeking an injunction in the Superior Court or by any other legal action.

ARTICLE 21 PENALTY

Any violation of this Ordinance shall be punishable by a civil fine of not more than \$100 for each day that such violation is found by a court to continue after the conviction date, or after the date on which the violator receives written notice from the Selectmen that he is in violation of the Ordinance, whichever date is earlier.

ARTICLE 22 SAVING CLAUSE

The invalidity of any provisions of this Ordinance shall not effect the validity of any other provisions.

ARTICLE 23 WHEN EFFECTIVE

This ordinance shall take effect upon its passage.